

THE ROLE OF THE TOWN CLERK IN
MUNICIPAL GOVERNMENT IN
SOUTH AFRICA

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Master of Public Administration

by

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TABLE OF CONTENTS

	<u>Page</u>
Preface	vii
<u>CHAPTER ONE</u>	
THE INTRODUCTION OF LOCAL GOVERNMENT TO SOUTH AFRICA	1
From 1652 to 1827	1
THE GROWTH AND DEVELOPMENT OF LOCAL GOVERNMENT IN THE UNITED KINGDOM	4
SOUTH AFRICAN GROWTH AND DEVELOPMENT	12
The Cape	13
Natal	16
The Transvaal	20
The Orange Free State	23
SUMMARY	27
<u>CHAPTER TWO</u>	
THE INTRODUCTION OF THE MANAGEMENT/ EXECUTIVE COMMITTEE INTO SOUTH AFRICA	31
THE CAPE : THE SLATER COMMISSION	32
THE TRANSVAAL : THE MARAIS COMMISSION	41
Some comments on the Marais Commission Report	49
NATAL : THE HOPEWELL COMMISSION	51
THE ORANGE FREE STATE : THE EKSTEEN COMMISSION	52
THE PORTFOLIO SYSTEM IN SOUTH AFRICA	53
RHODESIA	59
DEMOCRACY AND LOCAL AUTONOMY	60
THE POLICY-ADMINISTRATION DICHOTOMY	63
THE SPECIALIST-GENERALIST DICHOTOMY	64

CHAPTER/...

	Page
<u>CHAPTER THREE</u>	
THE CURRENT STATUS OF THE SOUTH AFRICAN TOWN CLERK	70
A BRIEF REVIEW OF EXISTING PROVIN- CIAL LEGISLATION	71
The Council and elections	71
Committees	71
The functions of executive or manage- ment committees	71
The functions of Town Clerks	72
Formal legal functions of the Town Clerk	75
FORMAL FUNCTIONS APART FROM LEGIS- LATION	76
THE CHIEF EXECUTIVE ROLE	78
PROTECTION UNDER THE LAW	81
Provincial Ordinances	81
The Industrial Conciliation Act, 28 of 1956	82
Comment	84
SALARY LIMITS	84
External Controls	85
Internal Controls	86
Comment	88
THE TRAINING, EDUCATION AND APPOINT- MENT OR SELECTION OF TOWN CLERKS	90
Qualifications	95
Selection and appointment of Town Clerks including formal and in- formal methods of selection	96
Whether Provincial Administrations should have any say in the se- lection or appointment of Town Clerks	97
Whether senior officials of the municipality should have any say in the selection of their Town Clerk	98

CHAPTER/...

CHAPTER FOUR

THE CONTINUATION OF THE INVESTIGATION INTO THE CURRENT STATUS OF THE SOUTH AFRICAN TOWN CLERK	99
The Town Clerk as Overall Director	99
Comment	103
Leadership and Organisation	104
THE ORGANISATION OF A FEW MAJOR TOWN CLERK'S DEPARTMENTS	111
East London	111
Ladysmith	113
Pietermaritzburg	114
Pretoria	114
Comment	114
THE TOWN CLERK AS A HEAD OF A DEPARTMENT	115
Comment	117
THE PARTICIPATION OF THE TOWN CLERK IN POLICY-MAKING	118
Comment	122
POLITICS, CITIZEN PARTICIPATION AND BUREAUCRACY	123

CHAPTER FIVE

THE INSTITUTE OF TOWN CLERKS OF SOUTHERN AFRICA AND OTHER MATTERS	130
The establishment of the Institute	130
Some references to the Institute's Constitution	133
Membership	135
District Committees	135
The Institute Council	136
Officers	136
By-Laws	137
Examinations	137
Rules of Conduct	138
The Growth of the Institute	139
A CASE STUDY IN LABOUR POLICY	140

CHAPTER/...

	<u>Page</u>
 <u>CHAPTER SIX</u>	
A BRIEF STUDY OF OVERSEAS LOCAL GOVERNMENT	149
France	149
The Netherlands	152
The Federal Republic of Germany	154
The United States of America	156
The United Kingdom	159
A CRITICISM OF THE BAINS REPORT	164
THE TOWN CLERK AS A PLANNER	167
 <u>CHAPTER SEVEN</u>	
SUMMARY AND CONCLUSIONS	172
Origins, Growth and Development	172
Legislation and the Nature of Municipal Administration	173
Town Clerks' Salaries	173
The Selection of Town Clerks	175
The Protection of Town Clerks	177
The effectiveness of Systems	178
The Institute of Town Clerks	178
Possible Improvements based on Overseas Practices	179
Democracy and Local Autonomy	181
The Town Clerk as Leader	182
The Town Clerk and a code of ethics	183
The Qualifications of Town Clerks	184
The Town Clerk's Department	186
Politics and Citizen Participation	187
The Town Clerk as a Planner	188
The Policy-Administration Dichotomy	188
The Specialist-Generalist Dichotomy	189
Final Summary	189
 <u>APPENDICES</u>	
Appendix One : The Structure of the East London Town Clerk's Department	190
Appendix Two : The Structure of the Ladysmith Town Clerk's Department	191
Appendix/...	

	<u>Page</u>
Appendix Three : The Structure of the Pietermaritzburg Town Clerk's Department	192
Appendix Four : The Council-Town Clerk- Heads of Departments Relationships in Pretoria	193
Appendix Five : The Traditional Pattern of Local Government Organisation	194
Appendix Six : The Modified Pattern of Local Government Organi- sation	195
Appendix Seven : The Management/Executive Pattern of Local Govern- ment Organisation	196
Appendix Eight : The Cape Town System of Organisation	197
Appendix Nine : The Town Clerk as a Head of a Department	198
Appendix Ten : The Participation of the Town Clerk in Policy- making	200
Appendix Eleven : The Reformed Structure of Local Government in the United Kingdom	201
BIBLIOGRAPHY	202

PREFACE

The purpose of this thesis is to study the role the Town Clerk plays in South African municipal government and to suggest what that role could be. The thesis is not concerned with politics as such but with public administration, although because of the structure of local government, the Town Clerk is involved with politics in the sense that the lay-administrators he works with are politicians. It is stressed that politics does not mean party politics. Furthermore, while the Town Clerk forms the central theme of the thesis, his role cannot be discussed in isolation from the local government system within which he operates.

Chapter One is historical, dealing with the introduction of local government by the original and later settlers and its growth and development in South Africa and the United Kingdom approximately to the time of Union. Chapter Two deals with the introduction of the management/executive committee system into South Africa and centres mainly on the Slater and Marais Commissions, with mention made of some other experiments. This Chapter also discusses the questions of democracy and local autonomy, as well as the policy-administration and specialist-generalist dichotomies.

Chapters Three and Four are an examination of and investigation into the current status of the Town Clerk in South Africa. A questionnaire sent to a representative sample of Town Clerks was used to obtain most of the information given; the remaining information comes from legislation. The main purposes of the questionnaire were to see what Town Clerks actually do and what they think about the systems they work under. In addition, there is in Chapter Four/...

Four some discussion on the questions of leadership and organisation, politics, citizen participation and bureaucracy.

Chapter Five is an examination of the Institute of Town Clerks of Southern Africa to see what role the Institute plays in relation to Town Clerks and public administration in general. This Chapter also discusses the relationship between the Institute and the South African Association of Municipal Employees (Non-Political) and contains a case study dealing with government and provincial handling of local authority labour relations.

Chapter Six is a brief study of overseas local government and also contains a criticism of the Bains Report and discusses the Town Clerk as a Planner.

In other words, the first five chapters lay the background to modern South African local government in relation to the Town Clerk, tracing growth and development through to current practice, followed by a brief study of overseas local government. Interspersed where necessary in these Chapters are references to and discussions of a few theoretical views. Chapter Seven is a summary of the main points from previous Chapters and in addition some conclusions are drawn with particular reference to the attributes and areas of activity for Town Clerks.

The thesis, while it examines the structure of South African local government, does not purport to deal with this subject in detail, particularly as its main thrust is towards the Town Clerk. For the same reason the brief study of overseas local government is not a detailed one but merely an adumbration. When dealing
with/...

with theories, in order to meet space limitations some selectivity had to be employed and the principle followed has been to use the views of a few leading modern American and British writers.

The methodology, apart from what has been said above, is the collection of all references to works, legislation and the like, in Chapter Notes at the end of each Chapter. Apart from one or two isolated instances all comment is contained in the body of the thesis itself, while there are eleven appendices containing information which has been tabulated as a summary on what is of interest. The Bibliography is arranged in the categories given in order to show all the sources used or consulted as well as general reading. The paragraphs of each Chapter are numbered from one onwards, with the use of decimalised numbers for subdivisions of paragraphs.

Finally, I would like to make the following acknowledgements:-

First to Professor Jan F. Beekman, Head of the Department of Public Administration, without whose experienced guidance I would never have completed this thesis.

Second to my colleagues both for their encouragement to tackle this thesis and for lending me material which I could use.

Third to all the twenty-three Town Clerks who replied to the questionnaire sent to them and who, in doing so, obviously went to a lot of trouble to be as helpful as possible.

Fourth to Mr. W. Hill, Secretary of the Institute of Town Clerks of Southern Africa and to Mr. J. J. Smit, General Secretary of the South African Association of Municipal Employees (Non-Political) for answering my enquiries and for supplying me with copies of documents and reports.

CHAPTER ONE

THE INTRODUCTION OF LOCAL GOVERNMENT TO SOUTH AFRICA.

1. The first permanent settlement of Europeans on South African soil was established by Commander Jan van Riebeeck on 6th April, 1652. The reason for the settlement was that the Directors of the Netherlands East India Company (the "Heeren 17" of the Vereenighde Oost-Indische Compagnie) required a refreshment station for their ships travelling between Holland and the East Indies. Table Bay was selected because it could provide fresh water, and because the shipwrecked crew of the Haarlem reported that not only could vegetables be grown successfully, but also that horned cattle and sheep could be purchased in plenty from the indigenous people.

2. As could be expected in a new settlement of the type established by van Riebeeck, local government as we understand it to-day, did not exist. The Council of Policy, under the leadership of the Governor, administered the affairs of the colony. The Council of Policy, after the Free Burghers were given land grants, consisted partly of Company officials, and two Free Burghers nominated by the Governor from a list of four selected by the Burghers themselves.

3. The Dutch source of local government was pre-Napoleonic, and exerted its influence through the landdrost/...

drost and heemraden system of local government.¹ As Theal states: "... election by the masses was not favoured in the Netherlands at this period, and the nearest approach to such a system was in the form of nomination of burgher councillors ..."² This system of landdrosten and heemraden was started by the Company in the period 1682-1685. The office of heemraad, a Thirteenth Century Dutch creation, was primarily judicial in character, while the Dutch landdrost had long been a rural agent for higher authorities in judicial, police, civil and military matters. The original Dutch system resembled to some extent the pre-Tudor English system but as applied in the Cape, the heemraad was more similar to the post-Tudor English system of justices of the peace. Nevertheless, because a spirit of local government, as Green³ calls it, persisted, local affairs were dealt with, e.g. taxes for road and water purposes.

4. The heemraden consisted of a variable number of burghers appointed by the Governor, from a list of nominees, while the landdrost was a Company official living in a free house (drostdy). The landdrost and heemraden constituted a college, which decided issues by majority vote. This system persisted intact in rural areas until 1827, with the addition, in 1805, of veld-cornetcies, who were responsible to the landdrost for portion of the district.⁴ These old colleges were the precursors of the divisional councils of the Cape.

5. In Cape Town itself, the Council of Policy under the Governor's leadership, continued to administer the Colony's affairs, but in 1779, 500 burghers petitioned the "Heeren 17" for political reforms--a greater share in government. In 1786 a Committee of the High Court, Kollege van Commissarissen uit den

Raad/...

Raad van Justitiae, consisting of three Company officials and three burghers was created to fix the price of bread and meat, suggest means of taxation, control public works, and generally to act as a municipal commission for Cape Town. This heralded the beginning of urban local government. In 1793 the Committee's powers were expanded, and wards were created, each under two wardmasters (wykmeesters) whose functions were essentially policing, cleansing and fire-fighting. The English equivalent to the Dutch wykmeester was the alderman or constable.⁵

6. Two years later, the first British occupation took place, and while the rural government system was left untouched, General Craig changed the municipal Committee into a Burgher Senate by eliminating the official representation. Burgher Senators were appointed by the Governor from a list of nominees, and municipal powers were extended to take in the control of public nuisances and disorderly houses, and the imposition of a street tax. The Burgher Senate also appointed a secretary.⁶

7. Preparatory to the end of the first British occupation, and the restoration of the Cape to the Batavian Republic, Advocate J. A. de Mist in 1802 drew up a report for a Town Council (Raad der Gemeente) at the Cape. De Mist's proposals were thirty-three years in advance of the English and accorded with the new liberal spirit then infusing Europe; they encompassed an elected Raad, which would employ its own secretary and treasurer and would be responsible for a wide range of functions, many of which are traditionally municipal to this day, e.g. building control and public health, but also including policing and a minor judicial function. However, De Mist's plan never saw the light of day, although the name of the Burgher Senate had been changed to that of Raad der Gemeente, and certain changes were introduced/.....

introduced, such as the obligation to appoint a treasurer, and the framing of annual estimates.⁷

8. It is worth noting that in De Mist's time Dutch and English municipal traditions had much in common and that the present divergence between the municipal systems of the two countries dates only from 1814 to 1835.⁸ One result of the revised Dutch Constitution of 1651 was to vest control of the Union's policy in its town councils. In both countries, the Seventeenth Century municipal councils were as a rule self-elected.

9. The second British occupation commenced in 1806, and the British remained in control of the Cape, and later Natal, until the creation of the Union of South Africa in 1910, when the Cape and Natal, with the recently conquered republics of the Free State and Transvaal, were welded into one country.

10. In 1827, the Burgher Senate was dissolved, leaving the administration of Cape Town in the hands of the Governor and his officials, until 1836, when the Municipal Ordinance was promulgated, providing for a board of commissioners elected by householders; each board was vested with powers of taxation and control of the community in respect of road repairs, health and public works. In 1840 a new Ordinance was promulgated extending the powers of the commissioners, and government by boards of commissioners remained the norm until 1867. The South African position will be further examined in more detail later in this Chapter.

THE GROWTH AND DEVELOPMENT OF LOCAL GOVERNMENT IN THE UNITED KINGDOM

11. Turning to England, it seems that the basis of English local government evolved from the Township Moot,
the/...

the Hundred Moot and the Shireage Moot established by the Saxon invaders.⁹ Without spending too much time on these ancient institutions, they originated as military organizations which developed as civil bodies, principally at first to maintain law and order. Before the Norman Conquest in 1066 A.D. sheriffs were introduced. These were a class of officials, King's men, whose administrative work was inferior to aldermen. However, after the Conquest, the sheriff increased in importance being in effect the representative of the King, and this official's authority was second only to the King in the manors of the royal demesne. After 1300 A.D. the status and power of the sheriffs declined as the Justices of the Peace acquired enlarged authority.¹⁰

12. As the feudal system disintegrated, under economic pressure and to some extent, social change, there was a growth in the number of chartered boroughs. Charters were granted by the King upon payment of a sum of money to him, and in return burgesses were freed from feudal control. In addition, the burgesses were made responsible for the protection and defence of the borough, maintenance of churches, roads and bridges. The borough was not necessarily a democratic institution, since the franchise sometimes went to certain property owners or to a merchant guild.¹¹

13. During the Fourteenth Century, officials known as Justices of the Peace, were appointed by King Edward III, primarily as officials of the law. Later, the Justices became members of the House of Commons, and appointed county officials to repair county highways and bridges. According to Clarke, other than for the appointment of constables to keep the peace, the Parish/Borough local government system remained more or less stagnant until the Industrial Revolution of the Eighteenth Century created such pollution and health problems, that

Parliament/...

Parliament was compelled to intervene in the Nineteenth Century.¹²

14. The Royal Commissioners on Municipal Corporations, who reported in 1835, found no common principles in the formation of local authorities or any common policies in relation to them. Following on the Royal Commission, the Municipal Corporations Act, 1835, "... established an uniform system of government in 178 out of the 246 incorporated towns. Political abuses were swept away. Administrative and judicial powers were separated ..."¹³ Before 1835, when a town wanted some public service or improvement, Parliament was requested to pass a special Act which meant that Commissioners were set up to manage the work or undertaking. The 1835 Act did not allow town councils to absorb these Commissioners, unless the Commissioners wanted to transfer their powers. The reasons seemed to have been fear of political change and the protection of vested interests.¹⁴

15. The Municipal Corporations Act, 1835, provided in section fifty-eight, that the council of every borough had to appoint a fit person, not being a council member, to be the Town Clerk for the borough, to hold office during the pleasure of the council, and to be paid whatever the council should think reasonable. The Town Clerk could be an attorney of "His Majesty's Superior Courts at Westminster" notwithstanding any law to the contrary. If the Town Clerk should be dead or incapable of acting, or if the council did not appoint a Town Clerk, then the work required to be done by the Town Clerk had to be done by the person executing duties similar to those of a Town Clerk, and if there be no such person, the Mayor was obliged to appoint a fit person.¹⁵ It is clear from these provisions that Parliament was determined that each borough would have a Town Clerk. The legislation did not define either functions or powers in section fifty-eight, and/...

and presumably it was left to the Council concerned to decide the nature and extent of the Town Clerk's functions and powers.

16. It is worth noting at this point that the Cape Municipal Ordinance, Nine of 1836, which was the first South African legislation on local government akin to the present-day system, bore no resemblance to the English Municipal Corporations Act, 1835: the Ordinance differed from the Act in that the former did not provide for a mayor, alderman, councillors, town clerk or committees, and the annual rate was determined by public meeting.¹⁶ The drafting of the 1835 Act started after the instructions for the Ordinance had been despatched. This does not, however, lessen the importance of the Ordinance, as will be discussed later.

17. Returning to English developments, the Municipal Corporations Act, 1882, is the next relevant legislation. This Act repealed the 1835 Act, together with forty-two other Acts passed since then, and partly repealed twenty-six other Acts. The Act of 1882 was a consolidating measure. However, the Local Government Act, 1888, is of considerable importance. To put this Act in context, it must be mentioned that following a Royal Commission in the period 1869 to 1871, the Local Government Board was constituted in terms of the Local Government Board Act, with poor relief and public health functions, public health at that time being an urgent problem. The Local Government Board was a strong central body, with power to compel local authorities to use their public health powers. In addition, the officials of the General Register Office, the Local Government Branch of the Home Office and of the Medical Department of the Privy Council were transferred to the Board. Centralisation of control over local government is therefore not unique to South Africa.

18. The/...

18. The chief object of the Local Government Act, 1882, was to transfer the administrative functions previously performed by the Justices in Quarter Sessions, to elected bodies, that is, financial control, maintenance of roads and bridges, licensing, the provision of asylums, the registration of electors; the arrangements for Parliamentary elections, and the application of legislation dealing with animal diseases, destructive insects and pests, fish conservancy, wild birds, weights and measures, explosives and gas meters. Certain new functions were added, namely, the acquisition of bridges, the maintenance of main roads, the prevention of the pollution of rivers, opposition to Parliamentary Bills, and the making of by-laws for the good rule and government of the county outside boroughs. Above all, the 1882 Act established county and county borough councils: it attempted to rationalise the growth of local authorities by creating an administrative unit of a determined size related to population (50 000 and upwards). In addition county councils were placed in a relationship between the central government and smaller local authorities.¹⁷ Green points out that the Proclamation of 1901 instituting the Johannesburg nominated council incorporated that part of the 1882 Act dealing with financial control.¹⁸

19. Having outlined in sketch form the organisation of English/British local government up to 1882, it is proposed to establish what the functional role of the Town Clerk was, and what qualifications, if any, he was required to possess. Reference has been made in paragraph fifteen supra to the fact that the Municipal Corporations Act, 1835, merely required the Town Clerk to be a "fit person" who could also, but need not, be an attorney of a superior court. Finer¹⁹ states that the method of appointment of Clerks of County Councils was "... a relic of the mentality of ... 1888, when the Local Government Act provided that he be appointed by the Standing Committee (of/...

(of the Council and Quarter Sessions but did not) prescribe qualifications..."²⁰ Finer concludes, however, on an interpretation of the Nineteenth Century legislation, that the intention was no more than to provide officers who would be chief of the clerical staff, the director of legal proceedings, legal adviser, and keeper of records. The reason why the County or Town Clerk was not regarded as an administrator or manager "...with a dynamic policy of advance and co-ordination..." was that in the Nineteenth Century hardly anyone thought of the local authority as an agency for the provision of a large complex of social services.²¹

20. The only other British local government legislation that need be mentioned are the:-

20.1 Local Government Act, 1894, the purpose of which was to rationalise the local government system in country districts by introducing rural and urban district councils in place of local sanitary authorities, in rural areas, and improvement commissioners on local boards of health, in urban areas; and the

20.2 London Local Government Act, 1899, the chief purpose of which was to replace the numerous vestries and district boards by a smaller number of local authorities.

21. Moving now to the Twentieth Century, there were the Education Acts of 1902 and 1921, the first of which transferred the education function to new local education authorities, the county and borough councils being made responsible in all cases. The 1921 Education Act repealed and re-enacted the 1902 Act in a consolidated form with about twenty-two other Acts.

22. The/...

22. The Local Government Act, 1929, was intended to remedy defects in the existing system by transferring the functions of the Boards of Guardians and the Poor Law Unions to county and borough councils. There was also some re-organisation of health services, and the registration of births, deaths and marriages. More important, county councils were empowered to undertake development planning in combination with other local authorities.

23. The Royal Commission on Local Government of 1923 recommended that consolidation of legislation should be undertaken immediately, and this in turn resulted in the formation in 1930 of the Local Government and Public Health Consolidation Committee, with the following terms of reference:-

With a view to the consolidation of the enactments applying to England and Wales, exclusive of London, and dealing with

- (a) local authorities and local government, and
- (b) matters relating to the public health, to consider under what heads these enactments should be grouped in consolidating legislation and what amendments of the existing law are desirable for facilitating consolidation and securing simplicity, uniformity and conciseness.

24. The Committee in 1933 issued an Interim Report, accompanied by a Draft Bill. The report stated that police and the administration of justice, certain charities, highways and bridges, rating, Exchequer grants, corrupt and illegal practices, superannuation of officers, and special areas, had been omitted from the Draft Bill, as these matters were considered inappropriate.

25. After/....

25. After reference to a Joint Select Committee, the Bill became law during 1933, after being amended in certain respects. The following portions of the Act are commented upon:-

25.1. Constitutional

Local constitutional peculiarities were swept away, and a skeleton which was common to each borough was provided--the council were elected by ratepayers, except the one-quarter who were elected by the council, namely, the aldermen.²²

25.2. Government

The council became a governmental institution and, although the functions were few, a council could make by-laws for the good rule and government of the borough. By providing for its property to be separate, the corporate shape of the borough was emphasised. Income was paid into a borough fund, rates could be levied, and a public audit of accounts was introduced.²³

26. To sum up, the English/British local government picture, the following emerges:-

26.1. first there occurred Germanic settlement and the creation of communities mainly for defensive purposes, namely, the Shire, the Hundred and the Township;

26.2. followed by the retention and development of these institutions for the preservation of law and order;

26.3. which in turn led to further development for the maintenance of public health;

26.4. but/...

- 26.4. but as the operation of the ancient institutions was wholly unsuitable for the needs of a growing urban population, apart from their being ineffective, Parliament intervened from 1835 onwards with various Acts, which were initially limited in their application but gradually grew to encompass all local government institutions; and
- 26.5. finally, by the time the Twentieth Century had gone through three decades, Parliament and the Government had accepted that more rationality had to be achieved.

27. At this point in British local government history, it is proposed to look further into the South African position. In the first few pages of this Chapter, the South African development since the second British occupation had been briefly sketched, and will now be examined with more detail.

SOUTH AFRICAN GROWTH AND DEVELOPMENT

28. First of all, it is mentioned that the South African legal system, as acquired from Holland, was, and is, Roman-Dutch, that is, Roman Law as "received" in Holland and brought to South Africa. The British, on acquiring a colony, left the former laws in operation, except in so far as those laws were changed subsequently. The 1806 terms of capitulation provided inter alia that "... the burghers and inhabitants shall preserve all their rights and privileges which they have enjoyed hitherto ..." ²⁴ The point is made so that in any comparisons between British and South African legislation, it is borne in mind that similarities in appearance in this legislation, do not mean that the South African legislature adopted the British common law. ²⁵

29. The Cape/...

The Cape

29. Green points out that Colonial Office policy changed gradually, with the adoption of responsible municipal government as an educational prelude to responsible parliamentary government. From this point, the Municipal Ordinance, 1836, was a starting-point deserving careful analysis, but was no unheralded innovation without precedent in the local annals of Holland, Britain or the Cape itself.²⁶

30. The 1836 Ordinance was designed for sizeable villages rather than towns and specifically excluded Cape Town. It created a small board of elected commissioners, which in practice was little more than the executive instrument of the popular will as expressed at public meetings of the board: wardmasters to assist the commissioners could also be elected. The Ordinance did not establish anything like the improvement commissioners found in most English towns from the mid-Eighteenth Century onwards; the English local government institutions nearest to the Cape Municipal boards were the parishes.²⁷

31. The provisions of the Ordinance are briefly described:-

31.1. A meeting was called of householders paying more than 6s per annum in taxes, and who lived within one mile from any central place, who, if they so decided by majority vote, elected a committee to prepare regulations to be submitted within one month to another meeting. These regulations were:-

31.1.1. to fix the limits of the municipality, if necessary dividing it into wards;

31.1.2. to fix the number of commissioners and wardmasters;

31.1.3. to/...

- 31.1.3. to make rules for the classification and valuation of property; and
- 31.1.4. to cover any other expedient matter.
- 31.2. If the regulations were adopted, they were submitted to the Governor for approval, amendment or rejection and took effect from the date they were published in the Gazette.
- 31.3. Thereafter a public meeting of resident householders was called to elect, by majority vote, as many commissioners as the regulations permitted. Candidate commissioners had to be house-owners paying at least £1 per annum in taxes, and served gratuitously for three years.
- 31.4. Once elected, commissioners had to meet regularly at a time specified in the regulations. Their proceedings had to be open to the public and they were obliged to hear any matter or complaint preferred by any person in connection with the Ordinance, the regulations, or their work and powers. Special meetings could also be held, at the request of a minimum specified number of commissioners.
- 31.5. The powers and duties conferred or imposed on commissioners required them to appoint a treasurer and such other officers as might be specified in the regulations; they might sue and be sued; they might call a public meeting to fix a rate on immovable property for any period up to twelve months; they might appoint a rate collector; they were obliged "... to cause all streets, watercourses, drains, roads and places ... to be kept clean and free from dirt and rubbish ..."; and they had permissive powers relating to policing, fire-fighting, public lighting systems, water supplies, drainage systems, the construction and repair of public streets, roads and places, the establishment and regulation/...

regulation of markets, the abatement of public nuisances, the conclusion of contracts, the enforcement of municipal regulations regarding common pasture lands, and the enforcement of municipal regulations regarding the assizing of weights and measures, slaughtering, the drawing and loading of carts and carriages, street obstructions, house repairs, and the control of dogs.²⁸

32. Ordinance 1 of 1840 established the Cape Town Municipal Board with twelve elected commissioners, who appointed a secretary and a treasurer. This Ordinance was preceded by another Ordinance, 3 of 1839, which would have applied the commissioner/wardmaster system to Cape Town but was strenuously opposed as it was felt that a more indirect form of government was required for a population of some 20 000 persons; that is, less control by public meeting and more effective neighbourhood representation on the central board.²⁹

33. The 1840 Ordinance introduced some significant changes. Although government by a board of commissioners, assisted by wardmasters, was retained, Cape Town was broken up into forty-eight wards, which were grouped into twelve districts of four contiguous wards each. Lists of persons qualified to vote and stand as candidates were also drawn up. Each district elected one commissioner, for a period of two years, and each ward elected two wardmasters, for a period of one year. Candidate commissioners had to own immovable property in the district worth at least £1000, but a candidate wardmaster need only be a qualified voter in the ward he wished to represent, that is, he had to own or occupy residential or business premises of at least £10 annual rental value--a principle enshrined in the English Municipal Corporations Act, 1835.³⁰

34. The/...

34. The functions of commissioners and wardmasters differed. The commissioners in general drafted regulations, drew up financial estimates and appointed staff, but in consultation with the wardmasters, who thus became a middle-class check upon the commissioners in regard to legislation and financial matters. The powers of the Cape Town Board of Commissioners were greater than those permitted by the Municipal Ordinance, 1836, and revived and extended those of the old Burgher Senate.³¹

35. Act 1 of 1867, was the next significant change for Cape Town, when the offices of commissioner and wardmaster were abolished in Cape Town, and provision instead made for the election of eighteen councillors, with three councillors representing each of six wards. This council was empowered to appoint a mayor. In respect of general municipal legislation, the Cape Municipal Act, 1882, repealed the Act of 1836, and introduced town councils of from six to twenty-six councillors, who annually elected a mayor or chairman, who might use a committee system, and who were obliged to appoint a municipal clerk and such other officers as might be thought necessary. The Cape Villages Management Act, 1881, established a system of village management boards, first introduced in 1870, in many ways comparable to the municipal boards of 1836, but superseded by the more appropriate town councils.

36. After Union, the law relating to municipal councils was consolidated and revised in Ordinance 10 of 1912, which remained in operation, although much amended, until 1951.

Natal

37. Natal was settled by both White groups in the decade 1830 to 1840. The British established the town of Durban (D'Urban) on 23rd June, 1835, and elected a town committee of four to clear the bush and handle general improvements, while/...

while the Voortrekkers entered Natal over the Drakensberg and established the Natal Republic of 1839 at Pietermaritzburg, where town government was undertaken by the Volksraad. In 1843, Natal was proclaimed a British colony.

38. Most of the inhabitants of Pietermaritzburg had come from the Cape Colony, and in 1846, they petitioned for the establishment of a municipal government. The ensuing Ordinance was passed by the Cape Legislative Assembly during 1847, and applied the 1836 Ordinance to Natal with hardly any amendment. This system was not a great success since the boards were more suited to rural government, and was not adopted by the colonists in Durban, who, being largely arrivals from the United Kingdom, stood out for a more significant form of municipal government.³²

39. This came in the form of Ordinance 1 of 1854, which was preceded by an 1853 Committee of Enquiry. The Committee consisted of the Magistrate of Pietermaritzburg, the Registrar of Deeds, and two citizens of Pietermaritzburg. The Committee rejected the existing Ordinance of 1847 as being

... defective and ill calculated to secure ... good and efficient municipal government ... and thus ... fails to secure a full and fair representation ... and tends to throw an undue amount of influence into the hands of a few restless agitators ...³³

The Pietermaritzburg board was a sharp thorn in the flesh of the Governor of Natal and the report just quoted was submitted by two officials.

40. The report of the Colonial officials added:-

The present system ... degrades the Commissioners to mere Delegates, fetters and obstructs them in the planning and execution of measures of public utility and by depriving them of the functions which are almost universally allowed in other countries to such offices, holds out little or no inducement for the more influential class of inhabitants to/...

to aspire to the office, as one of dignity and usefulness.³⁴

41. The report, while dealing with the political aspect, was primarily interested in good and efficient municipal government. Compare these views with those of the Royal Commissioners, whose report led to the Municipal Corporations Act, 1835. The Commissioners were most explicit, stating that:-

... the corporations look upon themselves ... as separate and exclusive bodies ... all identity of interest between the corporation and the inhabitants has disappeared ... the evils which have resulted from mis-managements of the corporate property are manifold and of the most glaring kind ...³⁵

42. The English experience, at that stage, seemed to be more concerned with rectifying corrupt administration but, in doing so, an intention to have sound administration is discernible, e.g. the opposite of an exclusive body is an open body. The Municipal Ordinance, 1854, followed with the Lieutenant-Governor of the time stating that to some extent it followed the principles of the improved corporation laws of England.³⁶

43. The new Ordinance introduced many changes but only the following need be mentioned:-

- 43.1. the inhabitants of the town were constituted into corporate bodies, governed by a mayor and councillors;
- 43.2. provision was made for the enrolment of voters;
- 43.3. municipal officers were appointed by a poll, and not at a public meeting;
- 43.4. publicity was to be given to the names of election candidates, who had to be invited to stand by a requisition signed by two electors;
- 43.5. auditors were to be elected;
- 43.6. taxing for local purposes was determined by the town council and not at public meetings;

43.7. the/...

43.7. the town clerk and committee system were introduced;

43.8. the outmoded wardmaster was abolished in favour of professional officers.³⁷

44. In the same year, the County Councils Ordinance, 1854, was introduced into Natal but was never ratified, and lapsed after three years, because of voter apathy; Green, op. cit. at page 37, states that this was because of opposition by the Dutch farmers at having to pay taxes, and the sparse population of the country areas.

45. Town Boards were introduced by the Townships Law, 1881, and these were elective bodies, that is, after proclamation, qualified voters elected a legislative council of seven for a period of twelve months. Their powers were gradually widened so that by 1896, they had become able to exercise the powers of a borough council of 1872. Town Boards remained until 1936, when they legally became similar to borough governments.

46. In place of the defunct county councils, Road Boards were constituted as elective bodies by Law 17 of 1883. They were concerned exclusively with the upkeep of rural roads.

47. The Natal Public Health Act of 1901, introduced new principles of local government--central government relations in that it provided among other things for the Governor-in-Council to rectify defaults in local health services, and introduced modern methods of legislating by departmental regulation; in other words, what had been a purely local service became centralised.³⁸

48. Furthermore, the Togh Labour Act of 1902 laid the foundations for the Natives (Urban Areas) Act of 1923 by requiring the registration of African servants

employed/...

employed in boroughs, except those employed on a monthly basis; The Native Beer Act of 1908 provided for a local authority monopoly, with a view to raising money to cover administrative costs, establishing locations and schools, providing hospital accommodation, or any other purpose in their interest. In its principles, this legislation is still in force to-day, although local authorities have been excluded by the creation of the Bantu Affairs Administration Boards, which are supposed to function as local authorities.³⁹

49. Green op. cit. at pages 42 to 43 concludes that the initiative in municipal administration tended to pass from the Cape to Natal where the English reforms of 1835 were introduced and where the introduction of the offices of mayor, councillor and Town Clerk led to their spread to other Provinces (Bloemfontein, 1859 and Cape Town, 1867), as well as to the general use of the committee system. Green claims also that Natal developments, presumably borrowed from England, led to the rise of the full-time, professional local government officer in South Africa, and to the development of high standards of municipal administration.

The Transvaal

50. The 1858 Constitution of the Zuid-Afrikaanse Republiek established beyond the Vaal River the old landdrost and heemraden system of judicial and civil administration brought north from the Cape by the Voortrekkers, but not without changes, e.g. at the first Volksvergadering on 2nd December, 1836, both the landdrost and the heemraden were directly elected by the people present, and not appointed.⁴⁰

51. The 1858 Constitution, Article 172, stated that:-

The/...

The administrative power shall be in the hands of Landdrosts and Heemraden with the addition of Clerks, Market Masters, Pound Masters, Valuers or Appraisers and Inspectors, and shall be assisted by Commandants and Fieldcornets.

The ZAR was divided into districts comprising divisions, towns and villages: each district was administered by a landdrost and six heemraden, assisted by a clerk; in each division, the commandants and fieldcornets, though primarily elected military officers, served the landdrost and heemraden in civil administrative matters; and every town or village had to have a market master and pound master responsible to the district administration. Valuers, inspectors and orphan masters, were to be appointed as required.⁴¹

52. All these officials were State employees and all revenues were collected for the State; thus although locally representative, because the public were given an opportunity to object to the appointment of landdrosten and heemraden, it was central rather than local government.⁴² The practice of electing landdrosten and heemraden grew to such an extent through local development, that an 1873 attempt to vest appointments in the State President was defeated in the Volksraad by sixteen votes to five.⁴³

53. Act 3 of 1881 confirmed reforms of 1887--the landdrost was chosen out of two nominations by majority vote in a free poll and this practice continued until the Anglo-Boer War, or South African War as it is also called. Act 3 of 1881 also provided for a district council or road board in place of heemraden. Where a town council was established, it had to be in the form of a mayor and five or seven councillors according to population. In terms of Act 6 of 1883, each district could, if it wanted, have a council consisting of one councillor elected from each fieldcornetcy for three years, with the landdrost acting as/...

as chairman. These councils were given the function of building and maintaining roads, revenue being defrayed from the State road tax, and by a special tax approved by the Executive Council if State funds should be insufficient. One of the landdrost's clerks had to be named as the Council's secretary. The old Cape system of local self-administration developed in the Transvaal into a system of local self-government.⁴⁴

54. The Transvaal was annexed twice by the British: the first occasion, 1880 to 1881, resulted in the repeal of all previous legislation and the establishment of Municipal Corporations in every town or village with at least 300 inhabitants, and this law (Act 16 of 1880) was a repetition of the Natal Law No. 19 of 1872. Act 16 of 1880 provided for the election of eight councillors, two per ward, a mayor elected by the town council, committees of management consisting of councillors, and a town clerk, town treasurer and other officials appointed and paid for by the council out of revenue deriving from a tax on land and buildings and other sources.

55. After the Republic was restored, the 1880 Act was scrapped.⁴⁵ Following the British conquest of Johannesburg and Pretoria in May/June, 1900, existing local government institutions continued, with a nominated town council for Johannesburg and some appointed health boards, until 1903 when a system of elected municipal councils and urban district boards was introduced. The principle followed was to build upon a basis of indigenous and traditional local self-government, married to self-financing, i.e. the council was to receive its funds from the community it governed.⁴⁶

56. The new system for selected towns was introduced by proclamations and ultimately, by the Municipal Corporations Ordinance/...

Ordinance, the Municipalities Elections Ordinance and the Local Authorities Rating Ordinance, all of 1903. In essence, the idea was to grant powers to levy rates, to borrow money, to operate a number of services, and to undertake a rudimentary form of town-planning. Most of the system was borrowed from Cape and Natal legislation, the only overseas source being the English County Councils Act, 1888.⁴⁷

57. An experimental period ensued between 1903 and 1912, such as the introduction of health committees for small communities, but in 1912, the Local Government Ordinance established a system that, except for Ordinances in 1926 and 1939, remained virtually unchanged to 1960.

58. The 1912 structure gave each town council a mayor, deputy mayor, committees and professional officers, whilst village councils were given an elected chairman and deputy chairman, with the members being elected at a public meeting. The Johannesburg Town Council protested that an Ordinance applicable generally was not suitable for Johannesburg which, with its larger population, would require a more complex and larger administration.⁴⁸

The Orange Free State

59. Between 1836 and 1854, only Winburg and Bloemfontein existed as settlements, and the former had an elected Volksraad of seven members who sat as a court of landdrost and heemraden for judicial purposes. On 3rd February, 1848, Sir Harry Smith, the administrator of what was by then known as the Orange River Sovereignty, proclaimed that municipalities would be granted as required. Some of Bloemfontein's landowners petitioned on 19th July, 1849, for a form of local government; pending this a provisional/...

provisional town board was appointed by the British Resident. After many vicissitudes, a town board was established in 1859; by then the Free State had been a Republic since 1854.⁴⁹

60. Legislation in 1856 and 1858 established two classes of local authority, major and minor local authorities, the major local authorities being recognised as municipalities, and the minor ones being all those not recognised as municipalities, and provided with committees of management.

61. On the municipal side, the legislation, the Municipal Ordinance of 1856, borrowed from the Cape Municipal Ordinance, 1836, and the Natal Ordinance, 1847, which was practically the same as the Cape Ordinance. The municipal institutions established were the boards of commissioners, assisted by wardmasters, with taxes and all other matters decided at public meetings, i.e. direct government. However, when municipal regulations were published for Bloemfontein on 29th March, 1859, they provided, apart from five commissioners, for a town clerk, treasurer and other officials, as appeared in Natal in 1854, before their introduction to the Cape.⁵⁰

62. But the system was more apt for villages than towns and gradually the pressure grew for a more indirect form of municipal government, as was the case in Natal. In the end, Ordinance 9 of 1880 provided for a town council of ten members for Bloemfontein, who were to elect a mayor and deputy mayor, and who could also fix rates, control land subdivision, alienate land, raise loans, appoint sanitary inspectors, and make municipal by-laws for the good rule and government of the town, subject in the last case, to the approval of the Executive Council.⁵¹

63. Ordinance/...

63. Ordinance 2 of 1858, which dealt with minor local authorities, provided for urban areas lacking a municipal board. In those cases, the resident landdrost, justice of the peace or other chief government officer could frame regulations for the management of the settlement, and which had to be adopted by a public meeting of householders, and approved by the Executive Council. Any officials required, such as a pound master or market master were to be appointed by the Government, as in the Transvaal, and until 1872 the landdrost or justice of the peace was alone responsible for the local administration of such villages. From 1873 the regulations usually provided for a committee or board of management, consisting of the landdrost or justice of the peace as ex officio chairman and four members elected annually as resident householders. Ordinance 3 of 1871 provided for the establishment of committees of management ("diggers' committees") on farms where digging was taking place.

64. A major change came in 1890, when Ordinance 28 of 1890 repealed the Ordinances of 1856 and 1858 and provided for a two-class system of elected town councils and village management boards, strongly reminiscent of the Cape reforms of 1881 and 1882, as influenced by those of Natal.⁵² All the large Free State towns, except Jagersfontein, enjoyed indirect municipal government by means of a council of from five to ten members, elected for two years, if necessary by wards, and these councils had annually to elect a mayor and deputy mayor. All town councils might exercise the powers given to Bloemfontein, see supra, but Bloemfontein continued to operate under its own Ordinance.

65. Village management boards consisting of from five to ten members elected annually by resident householders, were permitted, whose approval was still needed for the originating/...

originating of municipal regulations, as was the case in the towns. The officials required were still appointed by the Government who could ensure they thus received adequate salaries. After the Anglo-Boer War, during which local government virtually came to a standstill, the British military administration, by Proclamation 8 of 1902, appointed local boards of management with the powers of a town council or village management board, according to what had existed in 1899.⁵³

66. Ordinance 35 of 1903, based almost entirely on Cape legislation, revived elected local government in Bloemfontein, and the subsequent Ordinance 6 of 1904, applied the 1903 Ordinance throughout the Colony, except for a modification of the electoral system, namely the introduction of the general ticket system, without wards, and the introduction of the Transvaal provision for the obligatory appointment of a finance committee. Apart from these last two points, the new Ordinance was based on old principles, familiar before the War. Ordinance 12 of 1904 reconstituted the village management boards.⁵⁴

67. The Public Health Ordinance, 1907, introduced the new administrative principles of central control, but was not entirely successful because its application was discretionary, and no government subsidies were made. Ordinance 4 of 1907 set up annually elected committees of five members in certain agricultural settlements, and was the forerunner of the peri-urban settlement committees and management committees.

68. The Local Government Ordinance, 1913, was a consolidating measure, introducing uniformity between all town councils, including Bloemfontein. This has led to the complaint that the Free State's biggest city is treated on the same basis as the smallest town, with irritating restrictions.⁵⁵

SUMMARY

69. Local government in South Africa developed under Dutch rule from the need to maintain a mere way-station, virtually governed from Holland, to the institution of a form of civil administration, under which the administrator was as much a judicial functionary as an administrator. As the settlement grew, the need for at least a form of self-administration became more and more apparent, resulting in the evolution of a rudimentary form of local government. Had the second British occupation not taken place, De Mist might have introduced a far more liberal and advanced form of local government than existed in England at that time.

70. The English, in the meantime, after allowing local government institutions virtually to remain unchanged since Saxon times, underwent a period of change in the Nineteenth Century. In England, local government developed from defensive needs, which evolved into public order needs, which in turn evolved further into public health needs, to the eventual realisation that large towns had to have a rational system of government.

71. In South Africa's four Provinces, or Colonies or Republics, a basically similar, but faster, development took place, but only in broad outline. Partly this was due to known advancements in local government achieved by the time of the Nineteenth Century, and partly because the South African models of local government were built on an indigenous amalgam of Dutch and British institutions. Nonetheless, the British influence, having been experienced last before Union, is the more strongly felt. As Green remarks, the Cape Municipal Ordinance of 1836, broke new ground, but not without precedent in the local annals of either Holland or Britain; it was a measure rooted in past history and fashioned very largely by contemporary local opinion.⁵⁶

NOTES

- ¹L. P. Green, History of Local Government, p. 1.
- ²C. McCall Theal, History of South Africa, Vol. 1, p. 90.
- ³Green, op. cit., p. 3.
- ⁴Green, op. cit., pp. 3-4.
- ⁵Green, op. cit., pp. 8-9.
- ⁶Green, op. cit., pp. 9 and 12.
- ⁷Green, op. cit., pp. 10-12.
- ⁸Green, op. cit., p. 10.
- ⁹John J. Clarke, The Local Government of the United Kingdom, pp. 38-41.
- ¹⁰Clarke, op. cit., pp. 43-45.
- ¹¹Clarke, op. cit., pp. 46 and 47. Clarke defines a borough, p. 40, as a fortified town, necessary as a place of refuge from the sudden attack of outside foes.
- ¹²Clarke, op. cit., pp. 53-54.
- ¹³Clarke, op. cit., p. 58.
- ¹⁴J. L. Hammond, "The Social Background: 1835-1935", in A Century of Municipal Progress 1835-1935, ed. Harold J. Laski, W. Ivor Jennings and William A. Robson, p. 41.
- ¹⁵L. Hill writing in A Century of Municipal Progress 1835-1935, ed. Laski, Jennings and Robson, at p. 121.
- ¹⁶Green, op. cit., p. 17.
- ¹⁷Clarke, op. cit., pp. 79 and 80.
- ¹⁸Green, op. cit., p. 70.
- ¹⁹Herman Finer, English Local Government, p. 231.
- ²⁰Words in brackets inserted by author.
- ²¹Finer, op. cit., p. 232.
- ²²W. Ivor Jennings, "The Municipal Revolution", in A Century of Municipal Progress 1835-1935, ed. Harold J. Laski, W. Ivor Jennings and William A. Robson, p. 62.
- ²³Jennings, op. cit., pp. 62-63.

²⁴Verloren van Themaat, Staatsreg, ed. M. Wiechers, pp. 48-49 and 59-60.

²⁵Verloren van Themaat, op. cit., p. 16.

²⁶Green, op. cit., p. 16.

²⁷Green, op. cit., pp 16-17.

²⁸Green, op. cit., pp. 19-20.

²⁹Green, op. cit., p. 23.

³⁰Green, op. cit., p. 24.

³¹Green, op. cit., p. 25 sets these powers out in full.

³²Green, op. cit., pp. 29-30.

³³Green, op. cit., p. 31.

³⁴Green, op. cit., p. 31.

³⁵Jennings, op. cit., pp. 58-59

³⁶Green, op. cit., p. 33.

³⁷Green, op. cit., pp. 33-34.

³⁸Green, op. cit., p. 40.

³⁹Green, op. cit., pp. 41-42.

⁴⁰Green, op. cit., p. 44.

⁴¹Green, op. cit., pp. 45-46.

⁴²Green, op. cit., pp. 45-47.

⁴³Green, op. cit., pp. 47-48.

⁴⁴Green, op. cit., p. 49.

⁴⁵Green, op. cit., pp. 56-62 can be consulted for the variations attempted until 1900, especially the appointed Mayor, p. 60.

⁴⁶Green, op. cit., pp. 68-72.

⁴⁷Green, op. cit., pp. 69-72.

⁴⁸Green, op. cit., pp. 73-76.

⁴⁹Green/...

- ⁴⁹Green, op. cit., pp. 77-81.
- ⁵⁰Green, op. cit., pp. 80-81.
- ⁵¹Green, op. cit., p. 81.
- ⁵²Green, op. cit., p. 83.
- ⁵³Green, op. cit., p. 85.
- ⁵⁴Green, op. cit., p. 86.
- ⁵⁵Green, op. cit., p. 89.
- ⁵⁶Green, op. cit., p. 90.

CHAPTER TWO

THE INTRODUCTION OF THE MANAGEMENT/ EXECUTIVE COMMITTEE SYSTEM INTO SOUTH AFRICA.

1. This Chapter deals principally with commissions of enquiry which brought about changes in South African local government. Since the inception of local government in South Africa, i.e. the old colonies and republics as well as modern South Africa, there have been regrettably few independent and objective enquiries into the structure, functioning or nature of local government, although individuals have contributed by way of conference papers and articles in journals such as Municipal Administration and Engineering.

2. Of the six enquiries referred to by Green, two (1814 and 1836) were concerned with taxation in the Cape. The 1836 Cape enquiry led to the important Cape Municipal Ordinance, 1836, referred to in paragraphs 29 and 30 of Chapter One. The Natal 1853 enquiry led to Ordinance 1 of 1854, which was based on the then English model--see paragraphs 39 to 43 of Chapter One--and an enquiry in the Orange Free State in 1886 led to local self-government in Jagersfontein. Green refers to the 1921 Stallard Committee Report but gives very little information on it.¹ These reports are very difficult, if not impossible, to obtain.

3. Maud/...

3. Maud gives some information about the Hofmeyr Commission of 1915 which rejected government by commissioners on the American model, and the Stallard Commission of 1921 which suggested the abolition of the committee system and the introduction of a small executive committee to transact the detailed business of municipal government.²

4. For convenience, each Province will be dealt with separately.

THE CAPE : THE SLATER COMMISSION

5. The Administrator of the Cape appointed a Commission of Enquiry into the System of Local Government which applies to the City of Cape Town, generally known as the Slater Commission, with these terms of reference:-

- (1) to enquire into and report on the system of local government which applies to the City of Cape Town and the functioning under this system of -
 - (a) the City Council and its various committees, and
 - (b) the departments and organisations comprising the administration of the City;
- (2) to make such recommendations out of the enquiry as it may deem fit.³

6. The reason for the appointment of the Slater Commission, was a recommendation by Mr. Justice M. Diemont, who was the Commissioner for an earlier Commission of Enquiry into "The Administration of the Town Planning Scheme", in Cape Town. Judge Diemont was concerned at the fact that the committee system resulted in committees of laymen dealing with complex technical and planning matters. He was of the opinion that "... sweeping constitutional changes ..." should be considered by another commission. The Council, while pointing to the democratic/...

democratic nature of the system then in force, agreed to the further commission. The Slater Commission reported during 1964.

7. The Slater Commission, apart from a local investigation, also visited Pretoria, Johannesburg, Pietermaritzburg and Durban in South Africa, as well as twenty-eight cities in England, The Netherlands, West Germany, France, the United States of America and Canada.

8. The final report covered a very wide range of issues, such as personnel control, traffic control, metropolitan government, the organisation of specific branches, and many more, but these issues are not pertinent to the present enquiry. The analysis of the Slater Commission Report will therefore be mainly confined to the position of the Town Clerk, and matters directly relevant such as the type of local government recommended for Cape Town.

9. In describing the Cape Town City Council's constitution and functioning, the Commission made these points:-

9.1. there were forty-five councillors elected on a ticket of three in fifteen Wards for a period of three years, with all councillors retiring simultaneously;

9.2. the percentage poll at general elections had been low, as follows:-

<u>Year of General Election</u>	<u>Number of Wards contested</u>	<u>Percentage Poll</u>
1957	2	47,55
1960	6	34,75
1963	5	37,35;

9.3. the council functioned through committees, of which there were sixteen in 1963, and two of which were permanent sub-committees. In 1962 there had been twenty-one committees;

9.4. during/...

9.4. during the preceding three Mayoral years, the number of council and committee meetings had been as follows:-

Mayoral Year ending	No. of Council meetings	No. of com- mittee meetings	Total meetings
Sept., 1962	41	461	502
Sept., 1963	41	474	515
Sept., 1964	37	405	442;

9.5. committee meetings could be attended by councillors who were not members of the committee concerned, and total attendances by committee members for the period 1962 to 1964 came to 8816, whilst for councillors who were not committee members attendances for the same period totalled 7109.

10. The Commission's main points of criticism are summarised below. The Council, in replying to the report, did not comment on the first four chapters of the report. The chapter setting out criticisms was chapter four.

11. The Commission found that the system of working was "... hopelessly cumbersome, causes excessive delay and circumlocution in routine business ..." and apart from making decision-making difficult, wasted the time, talents and energy of councillors and officials. The consequential inefficiency was expensive, the main contributory causes being that the Council was too large, there were too many committees resulting in fragmentation without effective co-ordination, there was no executive body, there was insufficient adequate delegation to officials, and the co-ordination between Municipal Departments was also inadequate. One of the major faults was the uninhibited proliferation of committees.

12. The functions of committees were too finely divided and overlapped, resulting in jurisdictional tangles,
which/...

which, because of the time consumed in passing paper between committees often resulted in the stultification of any progress and the abuse of the committee system. There was a need for a broad policy-making committee. Councillors frequently complained of Provincial control but would not allow their chief officers to function efficiently. Correspondence was reproduced in extenso on agenda because councillors were not satisfied with précis made by officials.

13. The Commission recommended that the number of councillors be reduced to thirty with one councillor per Ward, elected for a four year period of office, with half the Council alternately retiring every two years. The Council opposed the reduction in the number of councillors, because a city as large, varied and scattered as Cape Town should be adequately represented. The Council pressed for forty-five councillors representing fifteen Wards, elected for four years.

14. After considering overseas practice and the Marais Commission report, see infra under Transvaal, the Commission decided that the elected executive committee is the best solution for Cape Town; this system followed South African tradition. The potential for malpractice had been mentioned by those giving evidence, but corrupt practice had not been absent from the system in operation. Democracy had to be protected, but must also be made to function effectively, and this could be achieved by way of personal responsibility placed on a small group. The executive committee should consist of five members, excluding the mayor who is chairman of the council.

15. The Council strongly opposed the creation of an executive committee because this "... revolutionary system ..." would be undemocratic, ignore history and
discard/...

discard hard-won freedoms. It would also place too much power in the hands of a few, and inevitably lead to the introduction of party politics into the council. The management committee system had not yet been proved, but in the Transvaal had led to the evil of becoming the mouth-piece of a party caucus. The system would be foreign to the conservative and historical traditions of Cape Town. The question of democracy is dealt with later in this Chapter.

16. On the question of other committees, the Commission did not entirely condemn the committee system; safeguarded against abuse it had a definite purpose and value. The Commission recommended a maximum of four standing committees, the chairmen of which would be members of the executive committee. It was vital that these committees be subordinate to the executive committee. The Council welcomed the Commission's views on the role of committees; it proposed reducing its sixteen committees to six, including one responsible for overall co-ordination, financial supervision, and control of the general policy of the council, i.e. it would not be a policy-making but a policy-controlling committee (author's underlining). It urged the Administrator to delay acting on the Commission's report, to give it an opportunity to prove its revised system.

17. The Commission stated that the Council had five heads of department, and the Council by law was compelled to appoint a Town Clerk, a Treasurer, and other necessary employees. The Council had to designate the Town Clerk as the chief administrative officer, a provision that was not clear in its meaning, i.e. was the Town Clerk to be the head of administration, or an office? The Commission found that the Town Clerk fulfilled a secretarial function, but was not accepted as the legal head. In the Transvaal, the Town Clerk had to be
appointed/...

appointed as chief executive and administrative officer, and every head of department was subordinate and responsible to the Town Clerk.

18. The Commission quoted pages 212 to 217, from "The Town Clerk in English Government" by T.E. Headrick, who considered that the Town Clerk should be responsible to the council for administrative organisation and efficiency, co-ordination of projects, for financial policy, for a consistent plan of development for the local authority and the town as a whole, and for relations with the public. This meant control of the staff establishment and organisation and methods, as well as power to enquire into organisational efficiency and to make recommendations to the council for improvements. Planning is dealt with in Chapter Six.

19. The Commission drew an analogy with Government and Provincial "heads of department", who as the men at the top were held personally accountable and responsible for the efficient and economical management of the whole department or Provincial Administration, being the overall supervisor and responsible for co-ordination, without being professionally expert on all the subjects administered by the organisation. This refers to the specialist-generalist dichotomy dealt with later in this Chapter. The Commission recommended that, in addition to being the chief administrative officer, the Town Clerk of Cape Town should also be responsible for carrying out all council and executive decisions and for the control, co-ordination, organisation and general supervision over all the Council's service, as well as communications between the Council, the executive committee and the departments. In addition every head of department should be subordinate and responsible to the Town Clerk for the proper management of his department, except for functions and powers conferred or imposed upon the head of department by any other law, and the Town Clerk's salary should be/...

be higher than that of other employees, except with the consent of the Administrator. A Deputy Town Clerk should be appointed who in the hierarchy of Cape Town should rank as a head of department.

20. The Council agreed generally that there should be one official to whom councillors and citizens could look as head of the service but he should not "intrude" into the technical and professional fields of departments. The Council felt that the Town Clerk should not be responsible for organisation and that heads of departments should be responsible for the technical and professional management of their departments. The Council also felt that the Deputy Town Clerk proposal was unnecessary.

21. To place the Council's views in perspective, the Commission's views on the Council's management of its staff are quoted, namely:-

Paragraph 167. I found little evidence of any real constructive efforts to build up an efficient well organised, well integrated and happy staff ... I found almost universal dissatisfaction ...; and

Paragraph 170. The Council and the Staff Committee have failed to achieve the high standards demanded by modern staff management.

22. The effect of the Council's opposition to the Commission's proposals for the Town Clerk of Cape Town was to destroy the whole concept of accountability pivotal to the Commission's whole approach. In formulating its views, the Council seems to have ignored modern, and not quite so modern, ideas on municipal administration. For example, Maud stated in 1932 that the Town Clerk's administrative duties were to supervise the organisation of his own department, and carry out legal and secretarial functions. The personal character of/...

of the Town Clerk determined in practice the part he could play in the administration and "... he alone is in a position to know where one department overlaps another ...". The Town Clerk is not necessarily a figure of importance but there was an increasing trend of recognising one member of the council's staff as chief officer.⁴ Finer, writing in 1933, stated that there is "... ample and enthusiastic recognition of the co-ordinating and managerial position of the Town Clerk ..."⁵. It had become common in the United Kingdom for councils to designate Town Clerks as chief administrative officers, and, because of the need for broad managerial supervision, Town Clerks were beginning to assume the functions of a principal officer.⁶ Headrick's view, quoted supra by the Commission is explicit regarding the functions needed to achieve accountability and co-ordination.

23. The Cape Town City Council's views may also have arisen from a misunderstanding of terms such as administration. In a recent book Baker defines administration as meaning not only "... getting things done ..." but more subtly an implication of direction and co-ordination. He distinguishes administration from management, defining the latter as carrying a suggestion of authoritarianism, or a practical way of getting things done efficiently.⁷ Hence, by requiring the Town Clerk to co-ordinate, without power to organise and be responsible for enquiring into all administrative aspects of the Council's operations, the Council was dooming him to failure.

24. At the end of this thesis all these points will be summarised so as to give a picture of a future Town Clerk.

25. Briefly, the ensuing Cape legislation, namely, The Municipality of Cape Town Administration Ordinance,

24 of 1965, provided for the following:-

- 25.1. Seventeen Wards, each represented by two councillors, elected for four years, were established. Later, the period of office was adjusted to require half the Council to retire every two years. Slater's proposal was for thirty Wards represented by one councillor each.
- 25.2. An executive committee of five councillors elected by the Council was established. The Chairman and Deputy Chairman are elected by the Council separately from the other members.
- 25.3. Since 1972, the Chairman holds office for two years, and other members for one year, but the legislation originally provided for a four year term as envisaged by Slater.
- 25.4. There are four standing committees of seven members each, chaired by an executive committee member, elected annually, and compelled to report to the executive committee, and not to the council.
- 25.5. The Town Clerk is the chief executive and administrative officer of the Council. His functions are set out in Chapter Three.

26. The legislation seems to be a compromise and its result is that the function of economy, co-ordination and improved working is dealt with by the executive committee and not the Town Clerk. This leaves the Town Clerk with control, co-ordination and general supervision over departments, but with departmental heads, including the Town Clerk, having a personal responsibility for the efficient management of their departments. In fact, the Council's Standing Order No. 85 make heads of department responsible, within the general and specific policy and principles laid down by the Council, for the conduct and administration of the departments falling under their control and for the implementation of resolutions of the Council/...

Council and its committees. Heads of departments are also required to act on behalf of and in the interests of the Council and to decide all matters of normal administration in accordance with precedent and known policy, and to exercise a due measure of discretion in implementing and amplifying, where necessary, the aforesaid policies. (Underlining by author). The Town Clerk is classed as a head of department in Standing Order No. 86.

27. Because this legislation emanates at Provincial level, there may be some truth in Cloete's assertion that the majority of Provincial officials usually do not possess practical experience in local government and administration.⁸

THE TRANSVAAL : THE MARAIS COMMISSION

28. The other major South African enquiry is that of the Commission of Enquiry into the System of Local Government in the Transvaal, under the chairmanship of the Hon. Justice J.F. Marais, and usually known as the Marais Report. Apart from the chairman, the Commission consisted of eight members, of whom six were connected with local authorities in one or another capacity, although two were also Provincial Councillors, while the remaining two members each represented one of the other two tiers of government, Provincial Council and Parliament. The Commission was constituted on 7th October, 1953, and after issuing two interim reports, April, 1954 and May, 1955, issued its third and final report on 14th February, 1957.

29. Much of the Commission's work is not relevant to this thesis, being concerned with licensing and a miscellany of matters. As in the case of the Slater Commission, the two facets examined will be the broad principles of government, and the position of the Town Clerk.

30. The/...

30. The Commission's terms of reference were to enquire into local government in the Transvaal with special reference to the following:-

- (a) The degree to which the present provincial legislation in respect of local authorities (except legislation in respect of Shop Laws, the Peri-Urban Areas Health Board and the levying of assessment rates by local authorities) meets the general requirements for the proper functioning of local authorities and the definition of such requirements;
- (b) whether all local authorities should be subject to the same measure of control by the Administrator-in-Executive Committee, and if not, the exceptions to be made and the extent thereof;
- (c) a system of representation by commissioner, either elective or appointed by the Administrator, for the different levels of local authorities;
- (d) the qualifications required or to be required for members of local authorities;
- (e) the powers and functions of standing committees of local authorities and the extent to which such powers and functions should be limited to prevent interference with municipal officials in the performance of their duties;
- (f) the position occupied by the Town Clerk and the City Treasurer in the administration of local government affairs and the control of the finances thereof;
- (i) the determination of standards of qualifications for the higher posts in municipal service and the means to be adopted to obtain such standards.⁹

31. Evidence was obtained by means of 168 memoranda received in reply to a questionnaire sent to all local authorities, and oral evidence before the Commission. There were at the time 132 bodies in the Transvaal which could be described as local authorities. The Commission made six findings, apart from its recommendations. The six findings are summarised as follows:-

31.1. First/...

31.1. First Finding

Local government, despite its shortcomings is indispensable part of the structure of South African government, and should not be replaced by agents of the central or provincial authorities, or by a system of local self-administration.

31.2. Second Finding

Public opinion against retention of the present system was growing. Unless local government functioned more efficiently, this abolitionist view would grow.

31.3. Third Finding

Local government had survived because of public-spirited citizens and enterprising and honest officials.

31.4. Fourth Finding

One of the basic causes of deterioration seemed to be insufficient guidance, lack of experimentation and the inelasticity of the system. A dynamic quality of self-change was needed for survival.

31.5. Fifth Finding

The resultant retention of obsolete forms of government and administration, defended and retained on the grounds of "traditions" and "democratic principles" was of doubtful validity.

31.6. Sixth Finding

Not enough had been done to raise the general level of qualification and performance of municipal staff. The fallacy that a body could do without a chief officer if controlled by lay-administrators had stultified rather than stimulated proper pride and initiative.

32. On the committee system of government, the Commission stated that its characteristic was to group councillors and staff so as to collaborate in the running of one particular section of the town's activities autonomously. At some point the elected lay administrator must govern in concert with the appointed professional administrator, conclusively determining the success or failure of the entire machine. It was ineffective, inefficient and wasteful for large bodies of councillors to debate issues, and in administration, there had to be delegation. The policy-administration dichotomy referred to here is dealt with later in this Chapter. In local government however, executive work was farmed out to standing committees, which supervised the work of groups of officials, the original intention having been that committees would be investigative and not executive bodies but, as the work load had increased, the council as a whole became unable to cope, resulting in the delegation of power to standing committees. The committee system became not a part of, but the whole government system, and public debate was ruled out, resulting in public apathy.

33. The Commission stated that the system did have merit, because it allowed specialisation, and all councillors got a turn at running some part of the municipal enterprise, but there were also disadvantages, even evils in the system, such as lack of co-ordination administratively, the temptation to abuse power and confidential knowledge, and the splitting up of officials into jealously guarded watertight compartments. Municipal government was the only modern system which tolerated independent administrative branches without any co-ordinating and controlling head. As fragmentation was the essential weakness of the committee system, the system had to be abolished. Two systems of ensuring co-ordination had been suggested:-

33.1. the/...

- 33.1. the mayor, as the one person capable of taking an over-all view, should be the co-ordinator; or
- 33.2. a co-ordinating and finance committee, consisting of all chairmen and some councillors, should be created;

but as the first entailed a drastic change in the mayor's ceremonial status, and the second could, if efficient, slow down the council's work or if inefficient, become a rubber stamp, another solution was needed.

34. The Commission concluded that, as its disadvantages outweighed its advantages; that as the original reasons for its introduction no longer obtained; and in view of the extent of modern development, the committee system was not worth retaining. Instead a bold step to remedy the more serious disadvantages of lay administration was recommended, namely, the use of the cabinet system and entrusting executive functions to one body. To avoid caucus rule and to ensure rule by the best talent available, the Commission recommended that the executive committee be elected by a system of proportional representation by the whole council, and also, that the committee bear joint responsibility for the acts of a single member, so that, if a motion of no confidence were to be passed in any one member, the whole committee would have to resign. As there might be a need for some standing committees in a few towns, this should not be precluded by law, as long as it was controlled.

35. Some safeguards on the power of the executive committee were also needed; the council should have the sole power to approve the budget, while the executive committee should have complete control of finances, subject to a right of veto vesting in the full council. The executive committee should also have certain statutory powers, in order to enable it to function. The powers given in the legislation/...

legislation are set out in Chapter Three. The principal officer should be the only official link between the council and its staff.

36. The Commission did not envisage the council meeting on a continuous basis because of its recommendation that council should meet at least once every two months, or six times a year. It was and is standard practice for councils to meet at least once a month, and often more frequently. The intention was to make the council a place for important public debate, where broad issues of policy would be discussed.

37. In the City of Johannesburg there was a directionless organisation, with no guard against malpractices on the part of staff or councillors. Effective over-all supervision of staff, and a check on councillors, was the only real guarantee against misgovernment, but was entirely absent. Some considered that the Town Clerk should, by dint of personality alone be able to persuade colleagues to co-ordinate their activities, where these overlapped; to influence them to adopt sound methods of administration; and to co-ordinate the activities of the executive and several standing committees, while others assumed that the Town Clerk was more than primus inter pares, because of his description as "chief administrative officer" in most municipal standing orders, and the Orange Free State Ordinance.

38. It was essential that the Town Clerk should be the sole head of his council's staff, but he neither legally nor customarily occupied that position. The change had always been impossible of achievement without the intervention of legislation to break the log-jam of watertight compartments, and the unwillingness of councillors to act. Some councillors feared giving Town Clerks too much power not because of possible misgovernment, but
because/...

because a Town Clerk whose position is "unassailable would be a powerful check on arbitrary rule on the part of councillors". The Commission recommended that every municipality be compelled to appoint a principal officer, responsible to the executive committee for the efficient administration of all municipal work, but not the technical efficiency of the different departments, and the only link between the council and its staff. The Town Clerk would also be in charge of the administrative department, and would be paid not less than ten per centum more than the highest salary paid by the council to any other permanent official.

39. The Commission decided that it was unnecessary, perhaps undesirable, for the principal officer to have specialised technical knowledge, but he should be a very capable administrator. On the argument that the principal officer should be a technical specialist capable of supervising technicians, the Commission pointed out that private enterprise does not seek, and seldom employs, a technical expert as general manager because they usually cannot avoid having a one-sided view of and interest in affairs. This raises the issue of the specialist-generalist argument, which will be dealt with later in this Chapter.

40. The Commission felt that trade unions composed of municipal officials should not have any say in the appointment of principal officers, and suggested that the Government be requested to exclude at least the post of principal officer from the ambit of the Industrial Conciliation Act. The sequel to this is dealt with in Chapter Five.

41. The Commission urged that university training facilities be provided not only to train potential recruits, but also to enable those already in municipal service to

qualify/...

qualify in their spare time (author's underlining).

The Commission was anxious that all universities should be persuaded to institute degree and diploma courses for potential principal officer trainees. For those already in employment, the University of South Africa provided the necessary courses and tuition. Although some universities already offered courses, and the Institute of Town Clerks had made a valuable training course available to students, much remained to be done.

42. The Commission was concerned at the fact that the councillors who appoint staff were usually not trained in or experienced for the task; they were temporary administrators inclined to overlook the long-term effects of a wrong or bad choice, and inclined to be parochial in regard to local candidates. Nepotism played a role in many cases. The selection of Town Clerks is commented on in Chapter Three.

43. The Commission believed that previous municipal experience for the post of principal officer was an important factor, but was only decisive when no more suitable applicant was available from elsewhere. But because of a long-standing parochial tradition, councillors were unlikely to follow a policy of appointing principal officers from elsewhere, and there was no local official to give advice, for those officials could not advise on the merits of their superior. The success or collapse of a local authority would undoubtedly be primarily due to the qualities of its principal officer. The Commission therefore reluctantly recommended that the Administrator, through a Board to be formed, should be given some authority in the appointment of principal officers, mainly to guard against the appointment of unqualified applicants. There were two possible systems:-

43.1. the Administrator could be given a right of veto, a proposal rejected by the Commission
because/...

because of the frustration it would engender; or

- 43.2. the Board could select a list of those candidates who, in its opinion, were qualified for the appointment, and from this list the local authority could select the candidate it considered the most suitable. This was the course recommended.

44. One member of the Commission, Mr. M. Nestadt, a Benoni Town Councillor, differed from this view believing that the prerogative of local authorities to appoint their own servants should not be impaired or further limited. This view relates to the argument of decentralisation versus centralisation to be commented on at a later stage in this Chapter.

Some comments on the Marais Commission Report

45. Evans describes the legislation that followed the Commission's report, namely, the Transvaal Local Government (Administration and Elections) Ordinance, 1960, the purpose of which was

... to provide for the establishment of a management committee for certain town and village councils to be responsible for the administration of matters relating to such councils and for the circumstances in which committees may be established for a city council and for such management committee; to make further provision in respect of a council in connection with the appointment of a town clerk and to provide in certain cases for the appointment of a clerk of a council ...¹⁰

46. All vacancies in the post of Town Clerk, after the first appointment made when the Ordinance was promulgated, must be advertised for at least two weeks in English and Afrikaans newspapers circulating in the Municipality. The Local Government Advisory Board in Pretoria, after considering all the applications prepares a list of applicants/...

applicants which it considers suitable and qualified for appointment as Town Clerk and the council must use this list to make its choice, unless it is of the opinion that none of the applicants on the list are suitable and qualified. If the Advisory Board considers that none of the applicants are suitable and qualified, it must inform the council of this fact, and in either of these last two circumstances, the council must re-advertise and follow the whole procedure ab initio. If on the second occasion a council finds itself unable to make a selection from either of the lists, it may appeal to the Administrator, requesting him to amend the lists, and the Administrator's decision is final and binding on the council. Should a council refuse, fail or neglect to comply with any of these procedures, the Administrator, after giving notice to the council, may himself do, carry out or exercise any function, duty or power conferred on the council. The Advisory Board, after consulting the council, may require any applicant to appear before it for an interview at the cost of the council. The words "suitable and qualified" are not defined and it appears to be the prerogative of the Advisory Board to determine which applicants fulfil these requirements. Evans states that the word suitable probably means personal attributes.¹¹

47. Also given are two views on the new system, the first by a former Town Clerk of Johannesburg, who felt that there should be more than one committee in Johannesburg since a full-time executive committee would take up too much of the time of the Town Clerk. He did not see how Town Clerks could increase departmental efficiency except in a few fundamental respects because a Town Clerk should not interfere in the running of a department for which a departmental head was responsible. This illustrates the misconceptions that existed about the Town Clerk's co-ordinative and leadership roles.¹²

48. The/...

48. The other view is one expressed by Lewis during 1973. Lewis concluded that in Johannesburg, the management committee system had speeded-up decision-making, and centralised power, without making the council chamber a place for debating important policy issues or indeed, in creating greater public interest in civic affairs. The Town Clerk had become dominant and this domination led to resentment and might inhibit the recruitment of professional staff into other departments. Two cardinal errors which had been made were in retaining the designation Town Clerk and in compelling the Town Clerk to be detached from other departments. The first error resulted in the title Town Clerk being confused with the functions and duties of the traditional Town Clerk, as evolved in and received from England, and the second error, apart from the fact that no qualifications were stipulated for him, meant that the Town Clerk had greater difficulty in a large organisation in co-ordinating diverse activities in isolation, with no staff of his own. The Town Clerk's title should be changed to Principal Officer.¹³

NATAL : THE HOPEWELL COMMISSION

49. The Hopewell Commission of 1969 recommended against the adoption of a management committee system for Natal. The multiple-committee system, which started in Natal, therefore remains. The basis for this view was 1. the unique relationship between the Provincial Administration and the Natal Municipal Association in which once a year the Administrator-in-Executive Committee meets the Association to discuss matters which both parties feel require discussion; and 2. flexibility in legislation between smaller and larger local authorities--but see infra under Portfolio System in South Africa.

ORANGE FREE STATE : THE EKSTEEN
COMMISSION¹⁴

50. A Commission of Enquiry, with Mr. Justice J.P.G. Eksteen as chairman, was appointed by the Administrator of the Province on 3rd April, 1964, to investigate whether existing legislation on local government was adequate and satisfactory, taking into account the demands made on local authorities, and to examine the constitution and functioning of local authorities with regard to:-

50.1. the existing electoral system and its contribution towards ensuring the greatest possible efficiency and highest quality of service in the sphere of local government and whether the present system brought about sufficient public interest;

50.2. the adequacy of the existing committee system.

51. The Commission, after receiving written evidence and visiting Pretoria and Johannesburg, noted the disadvantages of the committee system as reported by the Marais Commission whereby Free State local authorities were defeating the committee system by placing all councillors on all committees, thereby discharging council functions in committee. Delegations of powers to committees, although approved in theory, were seldom done; only one council in the Province, in which there were over fifty, did this. The Commission recommended the management committee system for all municipalities in the Province, and this was brought about by the Local Government Amendment Ordinance, 1966. The appointment of standing committees was no longer allowed, although ad hoc committees were permitted. The local government structure in the Orange Free State is also dealt with in Chapter Three. Management committee membership varies from three to five councillors and they are appointed to serve/...

serve for a period of five years. The council may at a special meeting adopt a resolution discharging any or all of the members of the management committee, for which reasons must be advanced. Compare this with the Transvaal system which requires collective responsibility--on a vote of no-confidence, the whole committee is discharged.

52. The primary powers of Free State management committees are generally similar to those of the other jurisdictions and are set out in Chapter Three. The management committee may also with the council's approval, delegate to the Town Clerk or a head of department, any power which the council has delegated to it.

53. In the Local Government Ordinance of 1962, the Town Clerk had to be designated as the chief administrative officer of the council. In 1966 amending Ordinance followed the Transvaal Ordinance in describing the Town Clerk as the chief officer of the council. The functions of the Town Clerk are set out in Chapter Three.

THE PORTFOLIO SYSTEM IN SOUTH AFRICA¹⁵

54. This idea, or modifications of it, has been tried in three municipalities, namely, Grahamstown, a "small" city; Kimberley, a "medium" city; and Durban, a "large" city. The way each has approached its problem and defined the system is set out separately below. The value of the Portfolio System is that it is a non-legislative alternative to the multiple committee or management committee systems.

Grahamstown

55. The system evolved from and is to some extent related to, Grahamstown's financial position. The objective has been to reduce to an absolute minimum formal administrative work connected with committee meetings such as notices/...

notices of meetings, agenda and the keeping of minutes. As a result there are only three bodies, namely the Council, the Finance and General Purposes Committee, the meetings of which are attended by all councillors, and a Planning Committee of major heads of departments. This last is an informal body and is also attended by some councillors. A Spokesman who is a councillor is allocated to each of the eight departments, and because there are ten councillors, the system works well. One of the eight Spokesmen is the Chairman of the Finance and General Purposes Committee, who represents the Treasury Department and the Mayor is Chairman of the Council.

56. The Spokesmen handle their portfolios by having a meeting with the head of the department, at which a Deputy Spokesman and another councillor are present. This "committee" then considers matters raised by the departmental head or matters specifically referred to the "committee". The Councillor/Spokesman is expected to familiarise himself with the workings of "his" department so as to back up the head, or to discuss his report in his absence. The system removes the need to keep minutes and drastically reduces the number of committee meetings.

Kimberley

57. Kimberley, until 1968, had the usual multiple-committee system, but abandoned it because it was a cause of duplication and wasted time. Standing Committees were abolished and replaced with the allocation of departments and divisions to individual councillors, thereby aligning the system with the cabinet system. As there are only eleven councillors, some councillors get more than one portfolio. The Mayor has no portfolio and the Deputy Mayor looks after the Administrative Department.

58. The/...

58. The allocation of portfolios is done by the Mayor and the Deputy Mayor with the Town Clerk's assistance. Normal procedure involves asking councillors to give their first and second choices; the latter because sometimes an "acting Minister" becomes necessary.

59. The management of the activities of each department is in the hands of its head, but problems are usually discussed with the portfolio-holder, whenever necessary. Matters requiring council approval are placed on the council's agenda, and after discussion with the head concerned, the portfolio-holder must propose to the council and explain all items relating to his portfolio. The result has been that the full council twice a month considers and discusses each item on the agenda, and takes a decision on it. The Town Clerk is free to speak at council meetings, as are heads of departments whenever it is necessary to correct a misapprehension or amplify a report. This avoids the reference back of items for further report.

60. There are still two standing committees, a Finance Control Committee, which formulates financial planning and policy guidelines, to advise the council how to formulate financial policy, and a Property Committee, to determine compensation and to negotiate.

61. There is also a Heads of Departments Committee, chaired by the Town Clerk, and consisting of the seven major heads of departments. This Committee serves as an advisory committee to the council and sometimes the council itself refers matters back to the Committee for further report. The main activities of this Committee are to co-ordinate and to plan, and although not a standing committee as described in the relevant Ordinance it sometimes sends recommendations direct to the council, and advises the council chiefly on matters of policy/...

policy and long-term planning. In addition, the preparation of the annual estimates, with alternatives, and many personnel matters are delegated to this Committee. The Town Clerk fulfils his managerial and coordinative functions through this Committee.

62. The most important advantages of the portfolio system, as seen by Kimberley, are:-

- 62.1. a great deal of waste and duplication is avoided, resulting in a considerable saving of time for councillors and officials, because virtually all committee meetings have been eliminated, and councillors and officials both play meaningful roles;
- 62.2. the Heads of Departments Committee is an outstanding opportunity for the Town Clerk to co-ordinate the activities of all departments and to act as general manager of the council;
- 62.3. councillors gain the opportunity of making a direct contribution in matters in which they have the deepest interest, without interfering in the work of officials.

63. The most important disadvantages of the system are:-

- 63.1. in larger cities with more councillors available than portfolios, not all councillors will get a portfolio; this problem could be overcome by having "Deputy Ministers";
- 63.2. personality clashes between councillors could result in an unpopular councillor experiencing problems in getting items relating to his "department" accepted by the council;
- 63.3. council meetings are sometimes lengthy because each matter is exhaustively discussed;

64.3. if/...

- 63.4. if officials do not at all times keep councillors fully informed, it could lead to clashes between officials and the council.

Durban

64. The Durban system is not a true portfolio system but a hybrid between the portfolio system, the executive committee system and the standing committee system.

65. Apart from advisory boards, a tender Board, and certain committees of officials, Durban has a :-

- 65.1. Management Committee, responsible for policy, long-term planning and budgeting in respect of all services and functions of the council, the most important being priorities and policy objectives, new policies, overall management and control of resources, policy guide-lines, reviews of effectiveness, as well as external relationships, planning strategy and development studies.
- 65.2. Works Committee, with the function of constructing roads, sewers and drains, police and traffic control, public lavatories, cleansing, water supply, surveys, and pollution matters, except those dealt with by the Health and Housing Committee.
- 65.3. Planning Committee, with functions related to town and regional planning, transportation planning and by-laws related to buildings and sub-divisions. This Committee may have two non-councillor members, namely, one member representing architects and one chosen from a panel submitted jointly by the Durban Chamber of Commerce and the Natal Chamber of Industries.
- 65.4. Trade/...

- 65.4. Trade Undertakings Committee, responsible for electricity supply, street lighting, fresh produce markets and fire brigade and ambulance services.
- 65.5. Health and Housing Committee, responsible for public health, community health, housing, planning, development and administration, and slum clearance.
- 65.6. Amenities Committee, responsible for all cultural and recreational amenities, leisure facilities, the provision of amateur recreational facilities and certain vegetation control.

66. These committees appear to be the same as those of any other local authority which applies the multiple-committee system but the difference lies in the measure of delegation of powers to these committees, the effect of which is to give each committee a large measure of executive autonomy, but subject to the council approving policy and dealing with doubtful cases. The Management Committee must take the decision where the standing committee decides to act contrary to the recommendation of a head of a department.

67. The Durban system is not as co-ordinated as the Kimberley system and it is difficult to see how the Town Clerk can fulfil completely his role as chief executive and administrative officer. The alternative practised at Grahamstown may have the same result but decision-making is quicker, while the Kimberley approach combines the giving of councillors a meaningful say in decision-making, and simultaneously allows the Town Clerk to fulfil his role.

RHODESIA/...

RHODESIA

68. During 1964, the Town Clerks of Salisbury, Bulawayo and Umtali visited the Transvaal to study the practical application of the management committee system, before the Rhodesian Government proceeded with draft legislation to apply that system in Rhodesia.¹⁶ The conclusions this team arrived at was that the management committee system "... has commendable intentions, but still has some way (to go to) ... full and uninhibited acceptability ...".¹⁷ Legislation alone could not cure defects in local government; any new system had to be accepted by the people involved. An overhaul of the Rhodesian system would become necessary, but should be done by local authorities on their own initiative and without special legislation. The word "management" unfortunately conjured up the image of an authoritarian and bureaucratic body "without the attractive human qualities of compassion and understanding".

Salisbury

69. After the eight peri-urban local authorities around Salisbury had been united with the city in one authority, the City Council appointed management consultants to study the problem of urban planning: their advice was that the city should have an up-to-date administrative machine to prepare a comprehensive urban plan covering the whole area, i.e. not only physical planning but planning covering all aspects of urban life. As change is an integral part of city growth, coming rapidly and straining possibly out-moded machinery, the Salisbury City Council established a finance and development committee, responsible for the preparation of the urban plan and public works activities. The administrative structure was reviewed to eliminate duplication and conflicts/...

conflicts of interest, and to strengthen the capacity to implement the urban plan. As a consequence the post of Chief Executive, at a level above other departmental heads, including the Town Clerk, was created.¹⁸ The Salisbury City Council has a Corporate Development Group for urban planning, a Management Services Group of organisation and methods specialists, a Personnel Services Group, including a Safety Officer and Industrial Relations Officers, and a Public Liaison Officer.

70. The system, according to the Chief Executive, is not undemocratic in practice, and was completely accepted by heads of departments. It does appear, however, that the new system was not entirely acceptable to some of the City Councillors. The Chief Executive is also of the opinion that the proper co-ordination achieved has accelerated the implementation of his Council's policies and, in general, the City has benefitted from the introduction of the system. The broad range of the Chief Executive's duties appear from the following extract taken from the report of the consultants appointed by the Salisbury City Council:-

... the Chief Executive Officer's responsibility is to ensure that properly evaluated objectives, policies and plans are prepared for submission to the Finance and Development Committee and Council, and subsequently implemented. During the consideration of these proposals the Chief Executive must help and guide the committees' and Council's deliberations.¹⁹

DEMOCRACY AND LOCAL AUTONOMY

71. Paragraphs 13, 14, 15, 31.5 and 44 supra, for example, raise the issues of democracy in local government and local autonomy which is bound up with centralisation versus decentralisation. Local autonomy as such does not exist in a pure form because of Provincial and Central/...

Central government supervision, but it has a role to play in combating civic apathy. As Hill puts it: "... Local representative institutions enable a larger number of people to take an active part in democracy ...".²⁰

72. While the committee system may be the most democratic, administratively and organisationally it leads to fragmentation. The two concepts accordingly conflict and the Slater and Marais Commissions both felt that, as the committee system is wasteful of the community's resources, it should be rejected. The protest against Provincial and Central Government supervision, namely, that it allegedly destroys local autonomy, is the centralisation-decentralisation argument which is old and has never been settled. Self states that the general pressures for administrative centralisation are universal and derive from the needs of policy co-ordination, resources co-ordination and technical co-ordination at national level.²¹ Self also states that simplification of systems does not counter this trend but rather the reverse. Decentralisation is advocated because the system has gone undesirably far in certain directions upon a mixture of causes whose full effects were not anticipated or wanted.²² Simon sees centralisation as securing co-ordination, expertise and responsibility. Centralisation can either be the limiting of decision-making discretion by general rules, or taking decision-making away from subordinates.²³ Dunsire posits that people cannot have higher quality of service, local self-government, personal attention, and lower taxes at once, that is, both concepts each have their options but one cannot have all the options.²⁴ Freeman states that one cannot expect the Central Government to surrender control over the spending power of local government.²⁵

73. This short review leads to the conclusion that local autonomy is not definable but could be taken as a manifestation of the centralisation versus decentralisation argument/...

argument. Centralisation has theoretical attractions and could become a necessity--see Self and Simon supra--but as Dunsire supra rightly points out, it is possible that those who oppose centralisation do not really want to surrender the financial and other benefits which flow from it. It seems that centralisation is becoming a fact of life in the Western world. When Town Clerks support local autonomy, as will be seen from Chapter Three under the heading Whether Provincial Officials should have any say in the selection or appointment of Town Clerks, it is more often a protest against policy inconsistencies.

74. Democracy at local level is another concept difficult to define. Persons affected by authority might and sometimes do complain that they have been undemocratically treated, but this is not true if the motives involved are proper. The Cape Town City Councillors, supra, labelled the Slater Commission proposals for an executive committee as undemocratic but they were more probably resisting change. It is submitted that in local government there are internal and external aspects of democracy. Internal in the sense of the elected representatives having a full say in policy decision-making and a review procedure for administrative decisions; and external in the sense of a general suffrage and the rights of citizens to submit requests and to appeal against decisions. This external aspect is well covered by the "Justice-as-Fairness" test advocated by Henry--see Chapter Four infra under the heading Leadership and Organisation. As a final word on democracy Redford coins the term "workable democracy", defining it as:-

... the inclusive representation of interests in the interaction process among strategic organisational centres--a representation resulting from the responsiveness of the interaction process in the totality of its parts and the totality of its decisions to the demands of men

in/...

these fundamental principles and Morris' views cannot go unchallenged. In the author's experience one of the main stumbling blocks to removing departmentalism so as to provide an effective goal-orientated municipal service is the negative attitude of some, but not all, specialist officials to broader approaches to community and social problem, such as solving them by means of corporate teams. Morris' views if accepted will entrench fragmentation to the detriment of the whole community, and, apart from the fact that he ignores accepted principles of administration, he is arguing for selfish objectives. By all means, as will be argued in Chapter Seven, let engineers become Town Clerks but ensure that they are also administrators. In the interests of the community it would be better if for the time being the supremacy of the generalist in South African municipal administration is continued to ensure that specialists who attempt to become administrators are trained in administration.

NOTES

¹L. P. Green, History of Local Government in South Africa, pp. 5, 7, 13 to 14, 19, 31 to 32, 41 to 42, 83 and 92 to 93.

²John P. R. Maud, City Government, The Johannesburg Experiment, pp. 205-206.

³Proclamation 137 of 1963, published in the Provincial Gazette of 16th August, 1963.

⁴John P.R. Maud, Local Government, pp. 144-147.

⁵Herman Finer, English Local Government, p. 262

⁶J. H. Warren, The English Local Government System, pp. 133 and 134.

⁷R. J. S. Baker, Administrative Theory and Public Administration, pp. 12-13.

⁸J. J. N./...

⁸J. J. N. Cloete, Municipale Regering en Administrasie in Suid-Afrika, p. 43

⁹The Second Interim Report of the Commission of Enquiry into the System of Local Government in the Transvaal and the Structure of the System in the Province, 1955.

¹⁰S. Evans, New Management Committees in Local Government, pp. 11-30

¹¹Evans, op. cit., p. 58.

¹²From a copy of an unidentifiable article by Mr. B. Porter, titled "Some Thoughts on Local Government" and lent to me by the Deputy Town Clerk of Cape Town. The article seems to have been written circa 1960.

¹³P. R. B. Lewis, Review of Local Government Administration in the Transvaal with particular reference to the management committee system, 32nd Annual Conference, Local Government Association of Rhodesia; May, 1973.

¹⁴Evans, op. cit., pp. 81-86.

¹⁵Taken from correspondence from the Town Clerks of Grahamstown and Durban, and the Public Relations Officer, Kimberley, and loaned by the Deputy Town Clerk of Cape Town.

¹⁶Report on the Management Committee System in the Transvaal, Local Government Association of Southern Rhodesia, 1964.

¹⁷Words between brackets inserted by the author.

¹⁸See Municipal Administration and Engineering, July, 1973, pp. 19 and 21.

¹⁹Report of the Management Consultants to the Salisbury City Council.

²⁰Dilys M. Hill, Democratic Theory and Local Government, p. 20.

²¹Peter Self, Administrative Theories and Politics p. 139

²²Self, op. cit., pp. 260-261.

²³Herbert A. Simon, Administrative Behaviour, pp. 234-235.

²⁴Andrew/...

²⁴Andrew Dunsire, Administration : The Word and the Science, p. 193.

²⁵Roland Freeman, "Layfield : Science of the Physical, or Art of the Possible", in Municipal Administration and Engineering, December, 1976, p. 51.

²⁶Emmette S. Redford, Democracy in the Administrative State, p. 197.

²⁷R. J. S. Baker, Administrative Theory and Public Administration, pp. 13-14.

²⁸Dunsire, op. cit., pp. 172-175.

²⁹S. Evans, Aspects of Management in Local Government, delivered at the 24th Conference of the Institute of Town Clerks, June, 1977, at para. 5.

³⁰Paul H. Appleby, Policy and Administration, pp. 169-170.

³¹Dilys M. Hill, Democratic Theory and Local Government, p. 101.

³²Desmond Keeling, Management in Government, p. 26.

³³Self, op. cit., pp. 149-152.

³⁴Baker, op. cit., pp. 152-160.

³⁵Self, op. cit., pp. 195-199.

³⁶E. J. Hall, "Professional Engineering Service to the Local Authority", in Municipal Administration and Engineering, July, 1976, pp. 9 and 11.

³⁷S. S. Morris, "The Status of the Civil Engineer in Local Government", in Municipal Administration and Engineering, June, 1976, pp. 23-34.

CHAPTER THREE

THE CURRENT STATUS OF THE SOUTH AFRICAN TOWN CLERK.

1. The purpose in sending a questionnaire to a sample of Town Clerks was to obtain information upon which to base a study of the current position of the South African Town Clerk. Of the 377 municipalities listed in the 1975 Municipal Year Book, the Town Clerks of sixty-three of them, in all four Provinces, were sent questionnaires. The sample was also subdivided into three categories of large, medium and small, to ensure a spread of views, on the following basis:-

<u>Large</u>	<u>Medium</u>	<u>Small</u>
Population and ratable value in excess of 50 000 and R50-- million, res- pectively.	Population of between 10 000 and 50 000, with a ratable value not more than R50--million.	Population of up to 10 000 with a ratable value of less than R10-- million.
City status was also a factor.		

The information received has been summarised and, where necessary, translated. A total of twenty-three replies, amounting to approximately thirty-eight per centum of the sample, were received.

A BRIEF/...

A BRIEF REVIEW OF EXISTING PROVINCIAL LEGISLATION

2. On a reading of the Provincial Municipal Ordinances for the four Provinces relating to the structure of local government, the following main points emerged:-

- 2.1. All Provinces provide in their legislation for the election of councils, the members of which remain in office for varying periods: four years in the Cape, three years in Natal, and five years in the Orange Free State and Transvaal.
- 2.2. The standing or multiple committee system is freely permitted in the Cape and in Natal, although in Cape Town a maximum of four standing committees is stipulated. In the Orange Free State and the Transvaal, the management committee system obtains but even in these Provinces, other committees can be permitted. In all cases where management or executive committees must be appointed, the council can discharge them, either individual members as in Cape Town and the Orange Free State, or the whole committee as in the Transvaal.

THE FUNCTIONS OF EXECUTIVE OR MANAGEMENT COMMITTEES

3. The functions of executive or management committees are set out below:-

3.1. Cape Town

The control of revenue collection and expenditure; the preparation of the annual estimates; reporting, with recommendations, to the council, on matters dealt with by the committee or on matters referred to the committee by the council; reporting, with recommendations, to the council on any other matter affecting the municipality.

3.2. Orange Free State

Controlling the collection of all revenue, and
expenditure/...

expenditure; the preparation of the annual estimates; reporting with recommendations to the council on matters dealt with by the committee or on any matters referred to the committee by the council; ensuring that all resolutions of the council are carried out.

3.3. Transvaal

Ensuring that all resolutions of the council are carried out; the preparation of the annual estimates; reporting to ordinary council meetings on the carrying out of its functions; considering matters entrusted by law to the council or of a local government nature, except matters excluded by request of the council, and advising the council and making recommendations; handling staff appointments, except major appointments; controlling expenditure and funds.

4. The above shows that in Cape Town and the Orange Free State the functions are the same except that in the Transvaal and the Free State management committees ensure that resolutions are carried out, while in Cape Town this is the Town Clerk's function. The function of reporting to the council is more definitely expressed in Cape Town and the Orange Free State, whilst in the Transvaal, the management committee must also consider matters, except those excluded by the council, and not only make recommendations, but also advise. The managerial function of the Transvaal management committee therefore seems to be more strongly emphasised.

THE FUNCTIONS OF TOWN CLERKS

5.1. Cape

Chief executive and administrative officer--duties undefined.

5.2. Cape Town/...

5.2. Cape Town

Chief executive and administrative officer responsible for 1. giving effect to resolutions; 2. communication between council organs inter se and these organs and departments; 3. the control and co-ordination of and general supervision over all the council's departments, with authority to inspect, enquire and make recommendations to the executive committee for effecting economies, co-ordination and improved working, without derogating from the departmental head's personal responsibility for the management of his department.

5.3. Natal

Chief executive and administrative officer, responsible for 1. giving effect to resolutions; 2. communication between council organs inter se and these organs and departments; 3. the control and co-ordination of and general supervision over all the council's departments, with authority to inspect and enquire and make recommendations to the council for effecting economies, co-ordination and improved working without derogating from the departmental head's personal responsibility for the efficient management of his department; 4. taking all reasonable steps to ensure that officials carry out their lawful duties.

5.4. Orange Free State

Chief officer of the council responsible for 1. carrying out all resolutions; 2. all communication between council organs inter se and these bodies and the council's departments; 3. the control and co-ordination of and general supervision over all the council's departments. All heads of departments are subject to the control of and responsible to the Town Clerk in the management of their departments, except where a specific legal power or duty arises.

5.5. Transvaal/...

5.5. Transvaal

Chief executive and administrative officer, responsible 1. to the management committee for the proper carrying out of the directions of the council and the management committee; 2. for the co-ordination, control and efficiency of the administration, organisation and management of the council's departments--heads of departments, except for specific legal powers or duties, are subordinate and responsible to the Town Clerk for the proper management of their departments--;

3. for communication between organs of the council.

6. These provisions show that in the Cape, Cape Town and Natal fragmentation is entrenched because heads of departments retain a personal responsibility for the management of their departments, while in the Orange Free State and the Transvaal, the head of department is entirely subordinate to the Town Clerk, except where a specific legal duty supervenes.

7. In general, the Town Clerk's responsibility for seeing that resolutions are carried out is common to all Provinces, although in the Transvaal this duty is subject to the supervision of the management committee. The communication function is similarly approximately the same, except that in the Transvaal it seems to be implied that other powers of the Town Clerk make it unnecessary to provide specifically for the communication function.

8. Deeper differences of principle appear in the co-ordinative and control function. In Cape Town and Natal the provisions are identical. Coupled with the independence of departmental heads this means that the Town Clerk's control, co-ordination and general supervision is diluted since he must act through a body of councillors. It is therefore wrong to describe the Town Clerk as an "... executive officer ..."; he is more of a

'supervisor/...

supervisor responsible to others.

9. The Town Clerk controls, co-ordinates and supervises departments in the Free State, or co-ordinates and controls the efficiency of the administration, organisation and management of departments in the Transvaal. There is little to choose between the two systems although the Transvaal wording is more explicit.

10. A constitutional oddity in the Cape is that the Town Clerk in Cape Town is the chief executive and administrative officer of the council, whereas in the rest of the Cape he performs this function for the municipality. As the municipality is the corporate body of all inhabitants, the latter formulation indicates a wider basis of responsibility.

FORMAL LEGAL FUNCTIONS OF THE TOWN CLERK

11. There is little that can be said about these. In general they concern acts such as managing elections, giving notice of meetings and the like. Two interesting points are the compulsory powers of the Town Clerk in Natal, where there have been unsavoury disclosures, to act in cases of corruption or malpractice by officials and councillors, by reporting them to the mayor and the Attorney-General, and in the Orange Free State where, if a councillor trades illegally with the council, the Town Clerk must report the matter to the mayor and convene a special meeting of the council. In the Transvaal, where a Clerk of the Council, with functions largely analogous to the traditional Town Clerk must be appointed, formal legal functions can devolve on the Town Clerk or the Clerk of the Council. Because formal functions derogate from executive functions it is perhaps undesirable that the Town Clerk should perform formal legal functions.

FORMAL/...

FORMAL FUNCTIONS APART
FROM LEGISLATION

12. Apart from legislation it is open to councils to define functions and powers in documents, usually known as standing orders or in resolutions or in by-laws.

The Cape Province

Large Municipalities.

13.1. One city does not define the Town Clerk's functions and powers while another city delegates thirty-six powers to the Town Clerk subject to policy and principle being decided by the council and to officials implementing policy. This issue is commented on in Chapter Two under the heading The Policy-Administration Dichotomy. Yet another town requires the Town Clerk to co-ordinate the council's work and to further efficiency without affecting the authority of heads of departments. In one case, the view was expressed that the fine definition of administrative functions is unsuitable for large towns: legislation should provide for references to the council impliedly to include the Town Clerk who would implement valid decisions.

Medium Municipalities.

13.2. Only one town has defined the Town Clerk's functions, making him responsible for communication, control, co-ordination and general supervision, with investigative powers aimed at effectiveness and economy, but without derogating from the personal responsibility of departmental heads for the effective management of their departments.

The/...

The Province of Natal

Large Municipalities.

- 14.1. Both replies received stated that the councils concerned had defined the powers of their Town Clerks, by making them responsible for ensuring that resolutions were carried out; the effective co-ordination of departmental activities; issuing directives for the implementation of council or committee decisions or for the proper and beneficial administration of the council's affairs; and to require departmental heads to report on such matters as the Town Clerk may find to be necessary.

Medium Municipalities.

- 14.2. One town had undertaken a formal delegation, namely, the signing of documents and legal proceedings.

Small Municipalities.

- 14.3. The one reply received stated that the Town Clerk had been given clerical and secretarial functions, as well as delegated powers relating to the keeping and licensing of dogs, the waiver of pre-emptive property rights, signing contracts and the approval of subdivisions.

The Province of the Orange Free State.

Large Municipalities.

- 15.1. The only reply received stated that certain functions of the management committee, concerning communication, reporting procedures, legal matters and the sale of industrial sites, had been delegated to the Town Clerk.

Medium/...

Medium Municipalities.

15.2. In only two out of three replies had delegations been given to Town Clerks and these concerned advertising, recruitment of personnel, the temporary use of municipal land subject to conditions, the allocation of office space, the temporary closure of streets, entertaining prominent visitors, giving management committee reports to the press, the arming of employees, the hire of machinery and equipment to schools and churches, and the control of fire brigade and traffic control activities.

The Province of the Transvaal.

16. The replies received came from three large and three medium municipalities. Of these, two large and two medium municipalities had adopted the Standard Provincial Standing Orders which require all departmental reports to go first to the Town Clerk who may either refer them back for amendment or put them to the management committee, with the proviso that if the management committee had requested the report, the Town Clerk must submit it. The Town Clerk must comment on and make recommendations in respect of each report submitted. One Town Clerk of a large municipality stated that these provisions could not be applied in a large city as each departmental head should take responsibility for his own reports. The Town Clerk, where important or far-reaching matters were at issue, should first discuss the report with the head or heads concerned.

THE CHIEF EXECUTIVE ROLE

17. The question was whether the role of the Town Clerk in South Africa should be on the same basis as the Chief Executive/...

Executive as this is practiced in the United Kingdom. Not all those who returned the questionnaire replied to this question. The response was as follows:-

The Cape Province

Large

Two stated no, while one had no knowledge of the system.

Medium

One stated yes.

Small

One stated yes, while the other had no knowledge of the system.

18. Of those who said no, one Town Clerk stated that the system had not worked in the United Kingdom, while another felt that the Town Clerk's position as leader was unambiguous and did not give rise to the need for a "leader of men". This reply is not borne out by the facts but may be due to a misunderstanding of the question, and could be taken, by implication, to mean yes. Of those who said yes, one Town Clerk drew attention to the different constitutional position in South Africa, while another Town Clerk pointed out that in the United Kingdom departmental heads have more autonomy and he felt that this was appropriate.

The Province of Natal.

Large

One yes and one no received.

Medium

One no and one no comment received.

Small

The only reply indicated that the Town Clerk was not conversant with the system.

19. The Town Clerk who said yes stated that Natal Town Clerks, although legally chief officers, had no effective executive powers. Of those who said no, the reasons given were that the chief executive role depended upon what/...

what councils allowed to be effectively performed, and that a team of heads of department was preferred.

The Province of the Orange Free State.

Large

One yes.

Medium

One no.

Small

One yes.

20. The Town Clerk of the large municipality stated that the reason for his reply was self-evident, while the Town Clerk of the medium-sized town, who said no, stated that a detailed study should nevertheless be made.

The Province of the Transvaal.

Large

Two replies stated that the Town Clerk is chief executive by law, while the other stated no.

Medium

One reply stated that the Town Clerk is chief executive by law while the other stated yes.

21. The principal objection of the Town Clerk who said no, was based on a view of the American city manager system, whereby the Town Clerk could become a bottleneck. This is true if there is little delegation to heads of departments, and the chief executive does not confine himself to leadership and major policy. The yes given by one Town Clerk was based on the legal accountability of the South African Town Clerk.

22. The replies given above can be tabulated as follows:-

Large

Yes	No	No comment.
4	4	2

Medium

Yes	No	No comment.
3	2	4

Small

Yes	No	No comment.
2	-	2

23. Of the twenty-three replies received, just over one-third favoured the chief executive concept, including those Transvaal Town Clerks whose replies referred to the legal/...

legal status of the Town Clerk, who, it was assumed, intended a positive reply. Approximately one-quarter were opposed to the concept, while approximately one-third did not offer any comment for various reasons. Because nearly one-third of the sample who did not state any view, it is impossible to state with certainty that there is a clear majority of Town Clerks in favour of the United Kingdom Chief Executive concept. There is nevertheless a body of opinion in favour of the concept. The question of leadership will be dealt with in the next Chapter.

PROTECTION UNDER THE LAW

24. This involves reference to both the Provincial Municipal Ordinances and the Industrial Conciliation Act, 28 of 1956. The position, as taken from the Provincial Ordinances, can be summarised as follows:-

The Cape Province

25. The Town Clerk's services cannot be terminated unless the Administrator's approval is first obtained. If a council does not hold an enquiry into the termination of its Town Clerk's services, the Administrator may do so, but if the Town Clerk requests it in writing, the Administrator must hold the enquiry.

The Province of Natal

26. The Town Clerk cannot be removed from office unless a majority of all councillors vote to do so, and the Administrator gives his approval.

The Province of the Orange Free State

27. Any employee may be dismissed if a majority of the total number of councillors vote to this effect, unless there is provision to the contrary in his conditions/...

conditions of appointment or service. Where misconduct is the cause, no notice need be given. However, the Town Clerk, the treasurer and the engineer, cannot be dismissed unless the approval of the Administrator is obtained.

The Transvaal Province

28. A Town Clerk, unless there is a stipulation to the contrary in his service contract, may be removed from office upon at least one months' notice, or immediately where misconduct is the cause, if a majority of the full council present at a specially convened meeting take a resolution to this effect. The Administrator's approval must also be obtained.

The Industrial Conciliation Act, 28 of 1956.

29. The purpose of this Act is inter alia to prevent and settle disputes between employers and employees and to regulate terms and conditions of employment by agreement and arbitration. Municipal employees enjoy a special status under the Act because local authority employers and employees are prohibited from taking part in lock-outs and strikes, or inciting or instigating lock-outs and strikes. The Act provides for a voluntary process called a conciliation board, to be appointed by the Minister of Labour, to settle disputes as to remuneration or conditions of service, the intention being to bring the disputants to a meeting in the hope that a settlement can be reached.

30. If a settlement cannot be reached, the Act provides for compulsory arbitration in the case of local authorities, more usually by the body known as the Industrial Tribunal, consisting of five persons appointed by the Minister to act as arbitrators. The members must have a knowledge of the interests of local authorities and
their/...

their employees. The parties appear before the tribunal and plead their cases after which the tribunal hands down its award, which becomes binding on the parties. The Act is meant to deal with group disputes, but an exception is made in the case of local authorities.

Where a person is in a "reserved occupation"--this includes a person who satisfies the Registrar that he is a local authority employee precluded from becoming a trade union member--the Minister may appoint a conciliation board if the Minister is satisfied:-

- 30.1. that the person concerned was at all relevant times in a reserved occupation, and
- 30.2. the dispute concerns the termination of or suspension from employment of that person or the employer's failure or refusal to re-employ that person, and that the applicant has reasonable grounds for stating that his treatment is not due to misconduct or other justifying circumstances, and,
- 30.3. if the person concerned is employed by a local authority, the demand is not for preferential treatment involving a departure from the terms and conditions of employment;

an application by the individual for such a board to settle the dispute may be granted.

31. The Act does not, however, apply to "... any employee of any local authority designated by such authority in terms of any law as chief administrative officer of the local authority ...". The effect of this is that the Town Clerk cannot be represented by the South African Association of the Municipal Employees, which is a registered trade union, in cases of collective bargaining, nor has he the remedy of a conciliation board for an individual case, because there is nothing in the Act to prevent him from being a union member. The Minister must satisfy himself/...

himself on the factors listed above, and if he fails to exercise his discretion, the remedy falls away, and as a conciliation board is essentially a means of settling disputes by discussion leading to agreement or compromise, this cannot be achieved if the employer is adamant. Where a Town Clerk is treated unjustly, he may appeal to the Supreme Court, but this is an expensive remedy and may well be out of the reach of the individual without the financial backing of a trade union.

COMMENT

32. The protective value of Provincial legislation may be doubtful. The Act does not allow Town Clerks to gain any group benefit from being members of a trade union, and the legal remedies available are costly. The Government does not seem to have a national policy for Town Clerks, and, as local government is an important tier of government providing many essential services which should not be disrupted by labour disputes, this should be changed. There may be other reasons why Town Clerks are the sole concern of Provincial Administrations and these reasons will be discussed in Chapter Five.

33. There is also the possibility that a bad, incompetent or negligent Town Clerk can wreck his council's administration and, while this may be true, it avoids the point that good and competent Town Clerks should be fully protected against arbitrary or unjust action on the part of their employers. The present policy is singularly complicated and confusing.

SALARY LIMITS

34. This aspect is broken into two categories, namely, external or legislative controls on the salaries of Town Clerks, and internal controls, if any, on the part of local authorities.

EXTERNAL/...

EXTERNAL CONTROLS

35. Once again, recourse must be had to legislation, namely, Provincial Ordinances and the Industrial Conciliation Act, 28 of 1956.

The Cape Province

36. The Town Clerk's salary cannot be reduced without the Administrator's consent. If a council intends paying its Town Clerk more than R3500 per annum, a pitifully low figure, it cannot determine the salary or re-determine it, without the Administrator's prior approval. In Cape Town, the Town Clerk's salary must be higher than the salary paid to any other employee of the council.

The Province of Natal

37. The amounts of salary and allowances payable to the Town Clerk are subject to the approval of the Administrator.

The Province of the Orange Free State

38. The Town Clerk's remuneration must be higher than that of the next highest paid employee, with the proviso that the amount paid must be approved by the Administrator.

The Transvaal Province

39. The salary and allowances of the Town Clerk shall, unless the Administrator directs otherwise be higher, but not more than ten per centum higher than that of the next highest paid officer of the council, and the amount paid is subject to the Administrator's approval.

The Industrial Conciliation Act, 28 of 1956.

40. The Act defines a departmental head inter alia as

a/...

a person employed by a local authority in the capacity of Town Clerk, medical officer of health, city or town engineer or treasurer, etc. When a dispute arises between a council and a departmental head, all the Provincial legislation provides for this dispute to be referred to the Administrator. The Act empowers an Administrator, if he believes that the dispute could affect the salaries payable to other heads of departments of any other local authority, i.e. only one such authority, he may report to the Minister of Labour that in his opinion it is desirable that the dispute be settled by arbitration. The Minister may refer the matter to arbitration, and must do so if he believes that it would be in the interest of local government. The arbitration must be conducted by the Industrial Tribunal.

INTERNAL CONTROLS

41. Information was also obtained from Town Clerks, who were asked whether they were paid more than other heads of departments, and if they were paid the same as or less than other heads of departments, whether they could give the reasons for this.

The Cape Province

Large Municipalities

42.1. All Town Clerks are paid more than other heads of departments; in one case the Town Clerk is paid R17 548 per annum and other heads of departments are paid R16 000 per annum, while in other cases the amount was five per centum more plus perks, or as one Town Clerk put it, just a little bit more.

Medium Municipalities

42.2. One Town Clerk is paid more than other heads of departments but in another case, the town engineer is/...

is paid more than the Town Clerk, and in the same town, between 1st July, 1974 and 31st October, 1974, other heads of departments were all paid more than the Town Clerk as a result of an arbitration award. This last Town Clerk sees the reason for this as the dual role of the relevant Government bodies. Salaries of heads of departments are fixed, in terms of Act 28 of 1956, while the salaries of Town Clerks are fixed by the Administrator. When heads of departments' salaries are in dispute, the trade union is a party, whereas the Provincial Administration determines Town Clerks' salaries under an agreement between the four Administrators.

Small Municipalities

- 42.3. In one case the Town Clerk is paid more than other heads of departments while in another case the position fluctuates according to economic conditions and control by the Administrator. At times the town treasurer and town engineer receive higher salaries. Where this happens, the cause is "... artificial control by the Administrator...".

The Province of Natal

Large Municipalities

- 43.1. In all cases the Town Clerk is paid more than other heads of departments but in one case there have been interim periods when he has received less because of existing controls, although this has been adjusted in due course.

Medium Municipalities

- 43.2. In one case the Town Clerk is paid more than other heads, while in another case heads of departments have lower salary maxima, but receive an allowance equal/...

equal to twenty-two per centum of their basic salary by way of a pensionable allowance granted by the Industrial Tribunal. The Town Clerk's salary is fixed at R11400, whereas the Borough engineer's maximum is R9720, plus the allowance referred to supra, plus a long service increment, plus estimated overtime, give him a total of R12758, or R1358 per annum more than the Town Clerk receives.

Small Municipalities

43.3. The Town Clerk is paid more than other heads of departments.

The Province of the Orange Free State

44. The only exceptional reply stated that the town electrical engineer received a salary higher than the Town Clerk, despite the Ordinance, as a result of scarcity and associated allowances.

The Transvaal Province

Large and Medium Municipalities

45. The replies received merely referred to the section of the Ordinance referred to supra but one Town Clerk is paid less than the heads of departments--the apparent reason being that in the Transvaal, the Administrator determines the salaries of Town Clerks in relation to the salaries of the heads of State Departments. Another Town Clerk stated that he received less than one of the departmental heads because his council's salary scales provide for this differential, and the Administrator refuses to adjust the position.

COMMENT

46. The effect of all the legislation is that by
controlling/...

controlling the salaries of Town Clerks and departmental heads the State and the Provinces effectively control general municipal salaries. Whether this is good or bad depends on whether the control is applied arbitrarily or to see that a fair salary is paid; and whether the control is so discriminatory that, at higher levels, senior staff of talent and quality are either discouraged from staying in municipal service, or regard it as so unattractive that they try other fields.

47. A demoralised or badly-paid municipal service will affect numerous services vitally necessary for local communities. On the other hand, it would be unrealistic to expect the Government to abandon all control over the third tier of government, and, the bigger local government grows, the more it can expect to be exposed to central government control, and conversely the more it is likely to strive for independence. The Marais Commission felt that the Town Clerk should be removed from the ambit of the Industrial Conciliation Act in order to prevent trade union interference in this important appointment but this did not mean salary control.

48. The Government could argue that salary control is necessary to keep down costs in the interests of local communities, and some councillors will certainly see this control as a convenient means of keeping down costs and rate increases. Unfortunately, some municipal officials tend to equate their salaries with those paid to comparable designations in the private sector, without examining the functions of private sector jobs and this can result in higher than necessary salaries being paid. Local government employees should also strive to operate with smaller staffs, using the best methods available, if they want to press their claims for top salaries. Nonetheless, the survey reveals a picture of confusion and inconsistency. It is difficult to accept that the head of any organisation should be paid less than one of

his/...

his subordinates. To do so is to make a mockery of organisational rules. However, to provide in one legislative enactment that a Town Clerk must be the chief officer and in some cases adding that he must be the highest paid official, and then through a different law to allow this principle to be negated, is an indictment of the present system. In other words, if control is needed, let it flow from a national policy.

THE TRAINING, EDUCATION AND APPOINTMENT OR SELECTION OF TOWN CLERKS.

49. The questions asked pertained to:-
- 49.1. the qualifications, academic and otherwise, which councils expect from their Town Clerks;
 - 49.2. the selection and appointment of Town Clerks;
 - 49.3. the selection process;
 - 49.4. formal and informal methods of selection;
 - 49.5. whether Provincial Administrations should have any say in the selection and appointment of Town Clerks;
 - 49.6. whether senior officials of municipalities should have any say in the selection of their Town Clerks.

The Cape Province : All Municipalities

50. The qualifications expected of Town Clerks are in the order of an administrative, legal or commerce degree, or degrees with law or commerce as subjects although other degrees are not specifically excluded. In addition membership of the Institute of Town Clerks, or of the Institute of Administration and Commerce is accepted, and appropriate experience in an administrative capacity. In medium-sized towns the emphasis is more on finding the right person, rather than formal qualifications, while/...

while in small municipalities, councils would prefer some academic achievement. One council requires wide practical experience in administration and management.

51. The procedural process in filling a vacant post of Town Clerk consists of inviting applications by advertising in newspapers; submitting a schedule of applications to the appropriate body of councillors, sometimes with the Town Clerk's recommendations as to who should be interviewed in order to determine who should be interviewed; an interview either by a committee or by the full council; and in all cases the council makes the appointment.

52. Not much information was given on informal methods of selection but personal enquiries are made from previous employers and employees of the Provincial Administration, character references are checked, and questions are asked at interviews to determine character and reaction to stress. In one case, a social function was attended by councillors and candidates.

53. The council represents the ratepayers, who pay the salaries of employees, and whose interests must be protected and there is no reason why the Provincial Administration, which has no responsibility in the matter, should have any say in the appointment of the Town Clerk. There are already too many inroads into local autonomy. If the Town Clerk is appointed by the Provincial Administration, he will have divided loyalties. If the council and the Provincial Administration disagree on an appointment it could lead to discord, making the Town Clerk's job more difficult. One council would want to consult Provincial employees informally. One Town Clerk suggested that the Provincial Administration could encourage or start an organisation or body that would provide advice on the appointment of Town Clerks. The Institute of Town Clerks would be admirably suited for this purpose.

54. The/...

54. The only contrary view was that, to some degree, the Provincial Administration should have a say in the selection and appointment of Town Clerks because it has direct and indirect contact with, and knowledge of, the Town Clerks of local authorities, and should be able to judge their abilities. Where there are changes of councillors in the place or places where a candidate served before, there would be no way of obtaining an objective assessment of the candidate at local level.

55. Senior officials should not have any say in the selection or appointment of the Town Clerk, except perhaps the outgoing Town Clerk, because if this happened, it would undermine the position of the Town Clerk as chief executive and administrative officer and leader and amount to subordinates choosing their leader. It was suggested in one reply that senior officials could be allowed to give informal views.

56. A contrary view stated that senior officials might, with advantage, also have a say in the selection and appointment of the Town Clerk, since depending on their background and local government experience, those officials could submit recommendations, with motivation, in support of certain candidates.

The Province of Natal : All Municipalities

57. Town Clerks would be expected to have degrees with accounting, legal or administrative subjects, or be members of the Institute of Town Clerks, plus managerial abilities, leadership qualities, appropriate experience, a public relations "front", and other attributes of this nature. Not all towns can afford to stipulate academic qualifications and the emphasis would then fall on the best available candidate.

58. In one town, a decision is made whether to advertise
a/...

a vacancy or to make an internal promotion. In all other cases, the vacancy would be advertised, a short list of candidates for interview chosen by councillors and the applicant would be interviewed by the council which would make the appointment. In one case, all things being equal, the local candidate would get preference.

59. In the informal context, interviews are conducted on a question and answer basis, references are checked and personal enquiries are made.

60. The Provincial Administration should not have any say in what is a domestic matter affecting a community and the employer should select the type of person that best suits its need, and can handle local administration. Such a course could involve the Town Clerk in politics but one Town Clerk suggested that the Provincial Administration could act as an informal consultant.

61. No senior officials, other than the outgoing Town Clerk, should have any say in the selection and appointment of the chief administrative officer; this could lead to friction later.

The Province of the Orange Free State : All Municipalities.

62. The Town Clerk would be expected to be a member of the Institute of Town Clerks, and to have a bachelor's degree in law or administration, or just a general degree, as well as to have had appropriate administrative experience in a senior capacity.

63. The council selects candidates for interview and, after the interviews, makes the appointment. This is done in a purely subjective way and no selection technique or scientific methods are used. Provincial Administrations, instead of interfering in local affairs should institute
objective/...

objective selection techniques to assist smaller local authorities. This is a specialised task for which smaller towns and villages do not have the resources, but this does not of itself mean that the need must be left unfulfilled.

64. Less formally, the outgoing Town Clerk would make enquiries about those candidates regarded as possibilities and councillors would also make enquiries.

65. Councils ought to be autonomous, and the Provincial Administration should not have any say in the selection or appointment of the Town Clerk. Town Clerks have service motives connected with their local communities.

66. Senior officials should not have any say in the selection and appointment of the person who is to be their head. It was suggested in one case that opinions could be sought from senior officials.

The Transvaal Province : All Municipalities

67. The selection process in the Transvaal has been described in Chapter Two. The Provincial Administration in the Transvaal has a considerable say in the selection of Town Clerks, although appointments must, by law, be made by each council.

68. In the case of two cities, and one medium town, no academic qualifications are stipulated for the Town Clerk, while in the other cases the Town Clerk would be expected to possess a degree in law, accounting or administration and to be a member of the Institute of Town Clerks. In one of the cities which does not stipulate academic qualifications, managerial acumen, range of experience, personality and human relations are more important.

69. The/...

69. The only reference to informal selection was a statement that wives are invited to interviews.

70. There is a case for the Provincial Administration having a say in the selection of Town Clerks in that it avoids weak appointments, but there is also objection to the way local candidates are ignored in favour of outsiders. The Provincial Administration takes no responsibility for the persons it places on the short list. Most Town Clerks in the Transvaal accept the existing position.

71. Senior officials should have no say at all in the selection or appointment of the Town Clerk. Under organisational rules subordinates do not have any authority in the selection and appointment of their senior. There is also the embarrassment afterwards if the candidate exhibits any weakness at the interview.

COMMENT

Qualifications

72. There are fifteen municipalities which require some form of academic achievement, and eight who do not. Small local authorities have understandable difficulties in obtaining persons with academic qualifications but it is surprising that a large city does not require any academic qualifications. The Town Clerk is the chief administrator of a town and as such should be chosen for qualities which include a knowledge of administration. Problems are becoming more complex and the science of administration is growing and changing, so that an administrator who does not know administration is a contradiction in terms. The obtaining of a university degree is a proof of achievement but many specialist degrees do not make the holder an administrator. Theoretically there/...

Theoretically there is no reason why a specialist should not become a Town Clerk and this is discussed in Chapter Seven. Self states that "... there is no ideal set of qualifications for administrators ..."¹ In essence there seems to be three options open to councils:

1. to insist on candidate Town Clerks having no academic training at all; or 2. to require them to be qualified academically in administration; or 3. to accept any academic qualification, if the candidate Town Clerk possesses a knowledge of administration. The option chosen will to some extent determine the effectiveness of administration in the town concerned.

The Selection and Appointment of Town Clerks including formal and informal methods of selection.

73. The formal selection process is approximately the same or nearly the same in all Provinces, and the majority of municipalities in the sample seem to favour an open career system, and although some allow a form of preference to existing employees, this is not done at the sacrifice of quality. In the Transvaal, where the Provincial Administration has a considerable say in the selection of Town Clerks, there seems to be an inclination in favour of an open system. The existence of both open and closed career systems in municipal government is a normal phenomenon.

74. What is striking is that except for the Transvaal, the selection of the Town Clerk is done by lay-administrators who may have no knowledge of or skills in this process. Two Town Clerks, one in the Cape and the other in the Orange Free State suggested in the first case, that the Provincial Administration should initiate a bureau to provide advice on the appointment of Town Clerks for which purpose the Institute of Town Clerks would be admirably suited, and secondly that the Provincial Administration should initiate objective selection techniques--see paragraphs supra. These suggestions are most/...

most valuable and merit attention by the authorities and the Institute. If municipalities are to be more objective in their selection of staff then a central bureau on a national scale would be the best solution, since it is wasteful to expect hundreds of municipalities individually to undertake the necessary research, which could lead to a confusing, even dangerous, variety of techniques being employed.

75. As far as informal methods of selection are concerned, not enough in the way of hard facts was received upon which to justify any full conclusions. In essence, most of the replies assumed that informal methods meant some form of enquiry but there were also indications of the use of a social function or the interview of wives as being part of the informal process.

Whether Provincial Administrations should have any say in the selection or appointment of Town Clerks.

76. The reaction to this question to some extent follows Provincial divisions since half of the Transvaal replies favour the present system while more than two-thirds of the total replies which were against came from Provinces where this does not happen. In those Provinces where the Provincial Administration has no legal say in the selection of Town Clerks but is consulted informally, there is a virtually unanimous revulsion against the system, whereas half of the Transvaal Town Clerks who replied, two of whom are known to have been appointed under the system, are in favour of it. The inferences drawn are that those opposed to the system fear dual loyalties and yet more Provincial interference, while those who favour the system feel that it prevents weak or unwise choices by councils. Those who argued in favour of local autonomy may have been protesting at the present confused policies applicable to Town Clerks, although a fear of dual loyalties was also expressed.

77. Those/...

77. Those who favoured Provincial involvement pointed to the fact that the Provinces have constitutional legal obligations for local government and this must include supervision in practice. Provincial officials are in constant contact with municipal officials and can assess candidates' abilities, and they also know what kind of work is expected of officials. Furthermore, enlightened and rational control, exercised reasonably, can avoid weak appointments and the system prevents canvassing. The author does not believe that this last point is valid, since canvassing can occur at any level of government.

Whether senior officials of the Municipality should have any say in the selection of their Town Clerk.

78. All except two of the replies were opposed to this idea mainly because juniors should not select their seniors and the fact that this would undermine the leader's authority.

79. One of the contrary views stated that senior officials might, depending on their background and local government experience, make motivated recommendations in favour of certain candidates. This is a refreshing view since it must not be forgotten that senior officials will have to work with the Town Clerk. Conversely, the Town Clerk should also have a material say in the selection of senior officials who have to work with him. The other contrary view stated that while opinions could be obtained from senior officials, they should not have any authority to make an appointment. It is agreed that appointing authority is undesirable. If the councillors are the appointing authority, then any opinions given to them, backed up by experience and reasons, will be a valuable aid. Councillors are only temporary lay-administrators who often need the assistance of informed opinion.

NOTES.

¹Peter Self, Administrative Theories and Politics, p. 215.

CHAPTER FOUR

THE CONTINUATION OF THE INVESTIGATION INTO THE CURRENT STATUS OF THE SOUTH AFRICAN TOWN CLERK

THE TOWN CLERK AS OVERALL DIRECTOR OR CO-ORDINATOR

1. Town Clerks were asked whether they exercised an overall administrative and co-ordinative function in isolation or by way of a corporate body such as a committee of heads of departments, or a combination of both methods, in order to establish whether the municipal bureaucracy functioned collegially or monocratically.

The Cape Province

Large Municipalities

2. Two Town Clerks stated that they functioned independently, although discussions were held with heads of departments, while two others stated that a combined approach, i.e. functioning administratively and co-ordinatively in isolation, as well as by way of a corporate body was used. One of these Town Clerks has a standing committee of heads of departments to make recommendations to the council on the control of expenditure; the framing of the revenue and capital estimates; and personnel matters.

Medium Municipalities

3. In one case the Town Clerk operates in isolation where only one department is concerned, but by means of a meeting of two or more heads where more than one
department/...

department is concerned. The other reply stated that a combination of both methods is used.

Small Municipalities.

4. Completely in isolation in one case, and mostly in isolation in another case. In this latter case, departmental heads meet to handle problems of common interest. As the Town Clerk sees all correspondence, and as he is responsible for effecting council policy and decisions, he inevitably exercises an overall co-ordinative function. Even meetings of heads are really another means by which the Town Clerk achieves this object.

The Province of Natal

Large Municipalities

5. One Town Clerk does not personally handle all matters dealt with by his department since he, the Deputy Town Clerk and the Assistant Town Clerk form a team to ensure proper co-ordination and co-operation. Regular monthly meetings of heads of departments are held and, where necessary, meetings of a heads sub-committee to discuss particular matters. The other Town Clerk used both methods; the heads of departments committee is useful but the Town Clerk must also act on his own, and this is the most important.

Medium Municipalities

6. One Town Clerk functioned in isolation but maintained personal contact with heads of departments, so that they frequently called on him to discuss those problems for which they had no precedent. The heads of departments committee meets before council or committee meetings, and the views expressed often resulted in amendments to various recommendations. In another case,

a/...

a monthly informal meeting of heads of departments was held to discuss matters of common interest, or matters referred to the heads' committee by any committee of the Council, but this body was not an administrative or co-ordinative body.

Small Municipalities

7. The only reply received stated that most executive decisions are taken by the council, but preceded by consultation and discussion with heads of departments. In respect of administrative matters the Town Clerk functioned in isolation, but where a problem concerned a particular department, it was first discussed with the head of that department.

The Province of the Orange Free State

Large Municipalities

8. The only reply received stated that a combination of both methods is used. The Town Clerk has an advisory committee consisting of certain departmental heads which meets regularly. Meetings with all departmental heads are also held.

Medium Municipalities

9. All Town Clerks operated in isolation, but depending on circumstances, meetings with departmental heads were arranged, or discussions held with a particular head. In one town, when project planning was being done, or after the completion of a project, there would be morning meetings over a period of weeks attended by departmental heads and key personnel to discuss the matter at issue.

The/...

The Transvaal Province

Large Municipalities

10. Two Town Clerks use a combination of both methods. One Town Clerk stated that three committees were used for co-ordination. First, a committee of all departmental heads, with the Town Clerk as chairman. Second, a technical committee consisting of certain heads under the chairmanship of the Town Clerk. Third, a special advisory committee consisting of the Town Clerk, who is the chairman, City Engineer, City Treasurer, Clerk of the Council, a representative of the Staff Board, Medical Officer of Health, and the Director of Organisation and Methods. This last committee was particularly strong in achieving a co-ordinated approach to planning, the budget and staff policy. Another Town Clerk stated that the function was exercised in different ways. For example, there was an action programme drawn up by the heads of those departments which rendered services, to ensure co-ordination and mutual co-operation. Each year a services programme would be compiled for the next three years, under the chairmanship of the Town Clerk, to ensure that the service departments operated in a co-ordinated manner.

Medium Municipalities

11. One Town Clerk functioned in isolation but matters concerning different departments were discussed at a departmental heads meeting. Another Town Clerk exercised the overall administrative and co-ordinative function together with departmental heads, while yet another stated that weekly meetings of departmental heads ensured proper co-ordination and policy formulation. According to circumstances, discussions were held with individual heads to deal with specific matters.

COMMENT/...

COMMENT

12. The following table shows how many Town Clerks in the sample function in isolation, corporately, or by a combination of both methods. Where the reply stated that co-ordination and overall administrative control were exercised in isolation, but consultation took place with heads of departments, it has been classified under "isolated" since that is how that Town Clerk saw himself exercising his function.

<u>Province</u>	<u>Corporately</u>	<u>Isolated</u>	<u>A combina- tion of both</u>
Cape	-	5	3
Natal	1	2	2
Orange Free State	-	2	2
Transvaal	-	1	5
	1	10	12
Apportion- ment of all replies received	Just under one-twen- tieth	Almost half	Over half.

13. However, of those shown under "Isolated" the nature of eight of the replies indicated a combined approach, which would adjust the apportionment to just under one-twentieth, just under one-tenth, and almost nine-tenths, respectively. On the basis of this assumption, the sample shows that a majority of Town Clerks prefer to combine an isolationist approach with a corporate approach. Even if this assumption is wrong, more than half of the sample prefer the combined approach. This is encouraging if the abolition of fragmentation is to be achieved. If a Town Clerk must sometimes work in isolation this does not necessarily mean that there is a compromise between co-ordination and fragmentation. Where, for example, a Town Clerk must sometimes use his full authority against a recalcitrant departmental head, it is obviously better if this is done privately. Again, where a Town Clerk must/...

must disagree with departmental heads on a matter of principle, he cannot reasonably be expected to subject his function to a corporate team.

LEADERSHIP AND ORGANISATION

14. It is appropriate at this point to consider the issues of leadership and organisation. In Chapter Three it was shown that despite the large number of Town Clerks in the sample who did not reply on the question of the chief executive role, there is nevertheless a body of opinion in favour of the concept. The section just completed shows that a large number of Town Clerks in the sample use a corporate approach combined with an isolationist approach.

15. The quality of leadership in an organisation will to a large extent determine the effectiveness of that organisation. Town Clerks, as leaders of their town's bureaucracies, therefore need to have particular qualities, of which leadership is one, and this in turn raises the issue of authority. Weber's eight propositions on the structuring of legal authority systems rest upon a foundation of regulated, functionally divided activity in hierarchically arranged offices by trained men working according to technical or legal rules, and who do not own the organisation's resources; cannot appropriate their offices; and practice administration on the basis of written documents.¹

16. Simon in an early work states that authority exists where a person allows his behaviour to be guided by the decision of a superior, without independently examining the merits of that decision, but also that authority carried beyond a certain point exceeds the "... zone of acceptance ..." and is followed by disobedience.² In a subsequent work Simon states that the pressure in managing is/...

is decision-making and that given some natural endowment most executives can develop the necessary skills. He distinguishes between programmed decisions, which are essentially repetitive and routine and need not be treated de novo, and non-programmed decisions which are novel, unstructured and consequential.³ Simon also describes co-operation as an activity in which two or more participants share a common goal, but will usually be ineffective, while co-ordination is the process of informing each participant of the planned behaviours of the others. Hence co-operation cannot succeed without co-ordination.⁴ Simon comes to the conclusion that the decision-making process requires departmentalisation and sub-departmentalisation of responsibilities.⁵ Simon describes the anatomy of an organisation as being the allocation of decision-making functions and the physiology as the process whereby the organisation influences the decisions of its members. A final decision may rest with one person but the components of the decision can be traced through many formal and informal channels of communication. Informal communication may even lead to an individual accepting the leadership of another, i.e. the dominant person becomes a natural leader.⁶

17. Redford states that organisations are developed to serve the interests of clientele which means that the organisation's governing values are the interests of its clients. Organisations are strengthened by a mutuality of interest between workers and clients in the sense of sharing in goals or having an interest in the organisation's survival. Nevertheless the workers will have personal and group interests distinct from the organisation's values, and conflicts of interest will occur, but this is nothing new being a problem of application since the interest of the workers is one among a type of interests to be served.⁷ Keeling discusses the requirements of an administrator, stating that means and not ends are more important/...

important to him and that concepts such as equity, the equality of all before the law, natural justice and an applicant's right to a hearing prior to a decision being taken must always be in the forefront of the administrator's mind. Administrators of this model are more likely to be concerned with equity and preventing maladministration than opportunity cost or optimal resource allocation.⁸

18. Passett states that a serious gap exists in the performance of public service programmes in the United States, essentially because performance needs improvement, but that this improvement can be brought about by training and related human development. Some see this under-performance as being due to a leadership gap, others see it as being due to management or communication gaps. There are, in fact, weaknesses on both the managerial and leadership sides. If formal organisation is stressed in the definition of a manager, the traditional weakness of government bureaucratic organisation shows through. But if individual goals are stressed more than formal organisation, there is also a weakness. Despite attempted definitions of leadership in sociology, political science, psychology, business administration, etc., not very much is known about the real nature of leadership. There is a tendency to confuse various types of leadership. Passett refers to two views of leadership, namely, 1. a leader must have some political leeway to act so as to openly acknowledge interdependence with his subordinates, involving them in realistic goal-setting and moving them to integrate the productive requirements of the organisation with the more immediate needs of the people who man it; and 2. there are four inter-acting schools of thought on leadership, namely:-

- (i) Traits: Leaders have a different psychological make-up from other people.
- (ii) Situations: The situation determines which mix of traits and capabilities work.

(iii)/...

- (iii) Functions: Leaders plan and initiate, provide information and advice, make decisions and provide symbolic ('kingship') imagery.
- (iv) Birth or fate: Leaders are 'great men' who are born that way and make history.⁹

In the author's view only the first three of these schools of thought are valid to-day, and then in combination. The Town Clerk as a leader will find value in (ii) and (iii) in particular.

19. Henry, on the ethics of administrators, points out that under earlier approaches no morality was required of them or from them, i.e. morality involves ethical choices and the earlier approaches stressed the execution of the will of the governing body. Ethics is a requirement because there is a need to have regard to the public interest. Administrators have not yet evolved a workable framework of moral choice, and some have in fact avoided the task by examining ways in which "responsibility" and "accountability" are assured in public bodies. Radical humanism, which regards man as the most important concern of bureaucratic power has its attractions but because it does not define itself, it cannot easily be applied to administrative problems. The theory of John Rawls is the theory accepted by Henry and which is described as "Justice-as-Fairness". This involves applying two principles of justice, viz.

- (1) that 'each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others' and
- (2) that 'social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all'--provided that should these principles come into conflict, the second is expected to yield to the first; thus ... the dignity of man is considered to be of paramount importance.¹⁰

20. The issue of a code of ethics is succinctly stated by Wakefield as follows:-

It is the unique nature of public service that gives rise to ethical dilemmas ... as to the degree that ... moral and political ineptitude may be linked to prevailing institutional and social conditions ... there are institutional trends within the public service which have been developing in recent decades that seem to pose some difficulties for public service and the ethical conduct of it ... Even though codes of ethics are widely discussed they offer little promise as effective supports of ethical behaviour ... In summary, an ethical public service requires public servants with qualities of mind and character arising from internalised value systems. Inherent in those value systems is a clear concept of the public interest and an appreciation of the unique obligations of the public service.¹¹

Redford states that the public interest is too comprehensive and rich in variety to be captured in a definition but the concept has deep moral connotations, being democratic and having a claim to supremacy.¹²

21. Henry, after observing that politics and ethics are two of the three pillars of public administration, describes organisation theory as providing much of the "... conceptual roof over both these pillars ...". A model is a tentative definition but does not try to express the basic, irreducible nature of the object leaving open a freer approach for adaptation to circumstances. There are closed and open models of organisations. The closed model, which bears a strong resemblance to Weber's eight propositions summarised supra involves essentially the routinisation and specialisation of tasks and operation within a hierarchic structure, with decisions, knowledge and adjudication coming from the top. This model tends to interact vertically, emphasises obedience, responsibility for one's job and loyalty to the sub-unit.¹³

22. The/...

22. The open model is traditionally more part of the private than the public sector although this is changing in America. It goes by names such as collegial, competitive or free-market. This model is essentially non-routinised, with the emphasis on getting the job done, discarding job descriptions in favour of a corporate contribution to all problems. The organisation is perceived as being fluid and its members have specialised knowledge which they contribute to common tasks. In addition, loyalty is directed at the organisation as a whole and conflict is resolved as between peers. Knowledge can exist anywhere in the organisation, while interaction tends to be horizontal and directed towards accomplishment based on an image of intimacy. Finally achievement and excellence of performance are emphasised and organisational status is determined by professional ability and reputation instead of rank.¹⁴

23. When a closed organisation is confronted with an unstable environment, it must either "loosen up" and adapt, or die. The converse applies to an open organisation faced with a stable environment. Another way of emphasising the differences between the closed and open models is the application of McGregor's models of Theory X: work is not liked by most people, who prefer close supervision, without making any creative contribution, coupled with the application or threat of punishment; and Theory Y: most people can enjoy work and prefer doing jobs their way. They can also exercise self-control and want to solve problems creatively, coupled with group motivation and a motivation for social or ego rewards. Theory X would tend to apply more to the closed model and Theory Y to the open model.¹⁵

24. In the views referred to supra, it is possible to perceive answers to some of the problems revealed in this and the other Chapters. The Commissions, legislation and/...

and the questionnaire answers, for example, show that while Town Clerks are expected to be leaders in organisations little has been said or is known about the real nature of leadership which means that Town Clerks must each find their own modi operandi in an essentially legalistic framework. It might be argued that legal prescriptions, such as stipulating that the Town Clerk must supervise and co-ordinate, are all that is needed but this side-steps the problem, which is how Town Clerks should lead.

25. From what has been said supra, the following points relative to municipalities, may be extracted:-

- 25.1. municipal organisation is bureaucratic in nature and hierarchical in structure;
- 25.2. authoritarianism, or the idea of a single "boss" is no longer considered to constitute leadership, and can also breed disobedience;
- 25.3. not much is known about the nature of leadership but in general terms leadership by a Town Clerk involves working with both politicians and officials, with different approaches needed for each of these groups. In respect of officials, the Town Clerk's approach should be aimed at getting their co-operation in the achievement of accepted goals aimed at community needs, avoiding the inward-looking nature of bureaucracy, and ensuring that criteria such as efficiency and effectiveness are met;
- 25.4. Town Clerks as leaders should have a code of ethics embracing a conception of the public interest and an appreciation of the obligations of public servants. Henry's "Justice-as/...

as-Fairness" test would be a good basis;

- 25.5. organisation must have shape or structure but it is difficult to recommend any particular shape or structure as a standard for all municipalities, since size and structure will to a large extent depend on the problems each municipality has to solve;
- 25.6. nevertheless the open and closed models of organisation referred to supra could both be used in municipal administration. The closed model would suit the middle and lower levels of the organisation while the open model would suit a team consisting of the Town Clerk and his chief officials. Where the two models interact some conflict is likely but this could be minimised by the use of tact and consideration.

THE ORGANISATION OF A FEW MAJOR TOWN CLERK'S DEPARTMENTS.

26. Of the twenty-three replies to the questionnaire which were received, nine contained organisational charts of Town Clerk's Departments, of which four were from large municipalities, namely, East London, Ladysmith, Pietermaritzburg and Pretoria. In examining the organisation of these four Town Clerk's Departments, the diagrams supplied will be reproduced in a simplified form as appendices.

East London

27. The East London Town Clerk's Department has various sections, which are listed below. Each section has the necessary personnel, and their functions are:-

Section/...

SectionFunctions

Personnel

Recruitment, selection, placement, development, training, staff administration, leave, conditions of service, welfare, meetings of various committees and boards.

Safety

Industrial Nurse.

Work Study

Investigations, implementation and follow-up.

Printing

Processing metal masters, operating machines, preparation of raw material, finishing of printed material.

Voters Roll

Self-explanatory. This section is only staffed when necessary.

Land

Industrial land matters, industrial development promotion, industrial townships, expropriation of land.

Typing Pool

Rendering a typing service.

Registry

Registering post and handling records.

Housing, etc.

Housing, maintenance of Municipal property, sale of economic land, sale of economic houses, hiring out of expropriated property, trade licences, staff time-keeping, hiring out of civic buildings, and matters relating to Non-White Affairs, Health and the Abattoir.

Works/...

SectionFunctions

Works, etc.

Works, water affairs, sewerage, roads, electricity, town planning, bursaries, street collections, transport, traffic, fire, parks and amenities, library, market, art gallery, tenders and contracts, and meetings of the council and thirteen committees and boards.

28. East London has ten departments, including that of the Town Clerk. The functions outlined above would link these departments with the relevant committees. The structure of the Department is given in Appendix One, and essentially follows the line function concept, in that there is a clear line down to various subordinates, and could well be labelled as traditional.

Ladysmith

29. The structure of the Town Clerk's Department is given in Appendix Two. As Natal retains the multiple committee system it is a reasonable assumption that the three top officials would attend various committee and council meetings. This structure is also traditional and follows the concept of line authority.

30. The notes which accompanied the sketch state that the Town Clerk is responsible for general management and control, and the Deputy Town Clerk's duties are those which generally fall upon a deputy and include the committees dealing with staff, works, industrial development and Coloured local affairs. The Assistant Town Clerk (H) deals with the committees relating to housing and town planning; transportation and traffic; trading and the market advisory board. The Assistant Town Clerk (W) is responsible/...

responsible for general office control, and also deals with the committees relating to finance, policy and general purposes; and public health, parks and the art gallery. The Personnel and Methods Officer is responsible for personnel matters, organisation and methods, industrial relations, and safety and training. Three additional sections or "branches" not shown on the sketch fall under the control of the Town Clerk, namely, traffic, licensing and forestry.

Pietermaritzburg

31. The structure is given in Appendix Three. The Pietermaritzburg model differs from the more traditional models in that the Legal Adviser and two Assistant Town Clerks are not in a direct line configuration, and this in turn is probably necessary because there are ten committees, a Forestry Board, and a Plans Sub-Committee.

Pretoria

32. The structure, which is not that of a Town Clerk's Department but of the relationships between the Council, the Management Committee, the Town Clerk and heads of departments, is given in Appendix Four. The Town Clerk has a direct line of authority over all departments, which accords with the Transvaal system of local government. It will also be observed how few layers there are in the decision-making process. Although the charts of the traditional models did not show them, there is an intervening layer of committees, topped by the council, in these models.

COMMENT

33. The traditional pattern of local government organisation is given in Appendix Five. Where this system obtains/...

obtains, it is difficult for the Town Clerk, who is also a head of a department, to act as chief executive and administrative officer because he has departmental responsibilities to the committees.

34. It is however possible to modify the traditional pattern so as to achieve in some measure, the function of chief executive and administrative officer, and this modification is given in Appendix Six. This modification is nevertheless far from ideal as there is still fragmentation in the decision-making process and, unless the Town Clerk attends all committee meetings, or is strongly represented at those meetings, it will be virtually impossible to resist a creeping form of departmentalism, which in turn will exacerbate fragmentation.

35. The management/executive committee system, with a "strong" Town Clerk holding clear authority over heads of departments will give rise to a more rational, and certainly better, system of organisation and decision-making, as shown in Appendix Seven.

36. The Cape Town model, which is a compromise between the traditional and Transvaal/Free State systems is given in Appendix Eight. The system is not as clear and simple as the management committee system. Since one of the functions common to Town Clerks is co-ordination, the conclusion drawn is that the multiple committee system, at the least, makes this function difficult of fulfilment.

THE TOWN CLERK AS A HEAD OF A DEPARTMENT

37. In the Transvaal, the Town Clerk is by law not allowed to be a head of a department, and in the Orange Free State heads of departments are subordinated to the Town Clerk. Nevertheless, all Town Clerks in the sample were asked whether they were heads of departments, and if

so/...

so, whether they could give a broad outline of the size, duties and responsibilities of their departments.

The Cape Province : All Municipalities

38. All eight Town Clerks who replied, except one, have departments and the details are given in Appendix Nine. The exception merely referred to his status as chief executive and administrative officer and did not say that he had a department.

The Province of Natal : All Municipalities

39. All five Town Clerks who replied stated that they have departments and the details are given in Appendix Nine.

The Province of the Orange Free State

40. Three Town Clerks stated that formally, they are not departmental heads but one added that he supervised the liaison and advertising functions, for which purpose a liaison officer had been appointed, while another stated that he had been appointed by his Council as Chief of Civil Defence. This appointment does not mean departmental responsibilities but rather special action in times of emergency, since the operation of civil defence is closely linked with co-ordination and supervision. A fourth Town Clerk stated that as his Council did not have a Town Engineer he was formally, and in name, the head of the engineering department, which included public works. However, an engineering assistant looked after the organisational aspect, although the Town Clerk was responsible for the prescription of departmental policy.

The/...

The Transvaal Province

41. All the Transvaal Town Clerks either stated that they did not have departments or referred to the relevant section of the Ordinance. No exceptions were mentioned.

COMMENT

42. The concept of the Town Clerk as a departmental head does not exist in the Transvaal and the Orange Free State and the case of the Free State Town Clerk who is formally head of the engineering department is an exception which does not indicate a trend. In fact in these Provinces heads of departments are controlled by and subordinated to the Town Clerk. In the Cape and Natal the opposite prevails with Town Clerks despite their designation as chief executive and administrative officers being effectively regarded as heads of departments.

43. It is difficult to draw inferences from Appendix Nine and instead, comment will be directed at considering what activities should directly fall under a Town Clerk in order to fulfil the role of chief executive and administrative officer. Those suggested are personnel, organisation and methods, corporate planning, and possibly corporate management. This last activity does not appear in the Appendix at all, but is bound up with the coordinative function. It need not be elaborate--in most small or medium-sized local authorities all that is likely to be needed is a heads of departments committee, chaired by the Town Clerk, with corporate teams at the levels below whenever needed. These and allied issues are discussed again in Chapter Seven. Since the chief executive will often speak for his council, except possibly in a purely political context, the function of controlling public/...

public relations should perhaps also be added. Administration in the sense used by Cape and Natal Town Clerks in the sample often meant the provision of a secretarial and correspondence service. There is no need for the chief executive to be directly responsible for these functions, which could more properly fall into an administrative department structured on the lines of the Transvaal Clerk of the Council department. The other departmental functions listed in Appendix Nine could either be lumped in with the administrative department, or be assigned to other departments, e.g. forestry and aerodrome to the engineer, housing to the medical officer of health, etc.

THE PARTICIPATION OF THE TOWN CLERK IN POLICY-MAKING

44. Two aspects are envisaged, namely, policy-making at the level of officials, and policy-making at the committee/council level. The following questions were put:-

In your capacity as Town Clerk, do you -

1. monitor policy recommendations from departments?
2. have a policy of your own?
3. participate in policy-making at council level?
4. find it necessary to request your council to define or clarify policy?
5. find it necessary to explain to colleagues that they are not complying with or misinterpreting council policy?

The Cape Province

Large Municipalities

45. Of the four replies received, all stated that they/...

they monitored policy recommendations; three had policies of their own; all participated in policy-making at Council level; two asked their councils to clarify policy, while two others did so sometimes; and while all had to explain to colleagues that they were not complying with or misinterpreting policy, one only did so seldom and two did so sometimes. The question of misinterpretation, it was felt by three Town Clerks, was largely solved by regular meetings of heads of departments.

Medium Municipalities

46. Of the two replies received, one did and one did not monitor policy recommendations; one did and one did not have a policy of his own; both participated in policy-making at council level; one did and one did not have to request his council to clarify policy; and one did and one did not have to explain to colleagues that they were not complying with or misinterpreting policy. The Town Clerk who did no monitoring stated that this was unnecessary because of a dislike of authoritarianism, and because of the fact of meetings with heads of departments.

Small Municipalities

47. Of the two replies received, both stated that they monitored policy recommendations and had policies of their own; one participated fully in policy-making at council level while the other did so partially; both requested their councils to clarify policy although in one case this was only sometimes necessary; and both sometimes explained to colleagues that they were not complying with or misinterpreting policy.

The/...

The Province of Natal

Large Municipalities

48. Both replies received replied affirmatively to all questions. One Town Clerk stated that he approached the issue of explaining policy deviations to colleagues in the spirit of giving guidance. The other Town Clerk stated that the monitoring function was not exercised entirely personally but by a management team of himself, the Deputy Town Clerk and the two Assistant Town Clerks. This Town Clerk also felt that a personal policy was necessary to achieve effective local government.

Medium Municipalities

49. Both replies received replied affirmatively to all questions, although action in terms of the last question was seldom necessary. This was attributed by the Town Clerks concerned to their participation and the clear language used in policy statements. One Town Clerk only monitored policy recommendations if the departmental head concerned raised the matter at a meeting of heads of departments.

Small Municipalities

50. Only one reply was received, which replied affirmatively to all the questions except the one concerning explanations to colleagues who deviate from policy. The reason for this was that the Town Clerk formulated policy recommendations with heads of departments, and these were usually accepted by the council. The Town Clerk's policy was aimed at implementing modern business methods.

The/...

The Province of the Orange Free StateLarge Municipalities

51. The only reply received replied affirmatively to all questions.

Medium Municipalities

52. The three replies received were affirmative to all questions. One Town Clerk, in regard to participation in policy-making, distinguished between the submission of reports on matters of principle, and the submission of comment on possible policy forms. He also suggested that there was a parallel between the interpretation of laws and the interpretation of policy. Another Town Clerk made the point that monitoring policy recommendations did not apply if the departmental head had legally conferred capacities and duties, adding that his participation in policy-making was mostly at management committee level.

The Transvaal ProvinceLarge Municipalities

53. Of the three replies received, all were affirmative to all questions except that one Town Clerk did not have a policy of his own and only one had to explain policy deviations to colleagues. The others maintained this was not necessary either because accepted policy would be in a report approved by the council, or because regular meetings with heads of departments resulted in policy problems being re-submitted to the council. The Town Clerk who stated that he did not have a policy of his own, did state that he had a line of conduct or code of ethics of his own but he would not describe it as a policy.

Medium/...

Medium Municipalities

54. The three replies were affirmative in respect of all questions except that one Town Clerk did not find it necessary to have to explain policy deviations to colleagues because policy was clearly formulated and if problems arose the council would be asked to amend its policy. This Town Clerk also stated that his personal policy was aimed at the eradication of "red tape" and leading heads of departments to work hard and not just to give orders. In his view the Town Clerk, with departmental heads, should annually prepare an acceptable budget: this issue is dealt with in Chapter Seven.

COMMENT

55. The views given above are summarised in Appendix Ten, from which it will be seen that the Town Clerks in the sample seem to view themselves as either having a positive or outgoing policy function, or a review function. Approximately two-thirds fall into the first category, and the remainder into the second category. This illustrates to a considerable extent the role which the personality of the individual plays in public administration from the managerial point of view. In selecting models or systems the feelings of the individuals who are to work that model or system should be taken into account, and in selecting a leader, his personality or capacity to lead should also be assessed in the selection process.

56. As far as the policy-administration dichotomy is concerned, this is discussed in Chapter Two. It is submitted that it would be unthinkable to consider divorcing the Town Clerk from any role in policy formulation, if he is to be the leader of the municipal service and the link
between/...

between the service and the council or management committee. It should be noted that more than half of the Town Clerks in the sample who work under the multiple committee system play a positive role in policy-making, while nearly all the Town Clerks who work under the management committee system play a positive policy and co-ordinative role.

POLITICS, CITIZEN PARTICIPATION AND BUREAUCRACY

57. Policy-making is bound up with politics and since citizen participation is frequently raised by politicians when they refer to bureaucracies, these two concepts will also be briefly discussed. The position of the Town Clerk in relation to politicians in local government will become linked, if this has not already occurred, with the notion of citizen participation, which gives rise to the issue of the client having some say in the administration of his affairs.

58. A summary of Weber's eight propositions on the structure of bureaucracy has been given in paragraph 15. Albrow distinguishes three basic propositions as to the functions of public officials in the democratic state, namely: 1. officials have acquired too much power and must be brought back to their proper functions; 2. officials have ever-growing power and the task is to see that this is exercised wisely; and 3. power necessarily accrues to officials and ways should be sought of dispensing with them altogether. He labels these propositions as popular, orthodox and radical, respectively. The popular view is more of a complaint about the competence than the incompetence of officials. The criterion against which to measure democratic public administration is the responsibility of officials.¹⁶ Albrow also states that instead of limiting the policy-making role of the official, this should be recognised and even appreciated so as to develop an idea of government based more on a popular/...

popular free will and a free flow of information. The problems of bureaucracy arise when officials fail to understand or respond to public needs; the official should make use of the best sources of information and maintain contact with all levels of the public. This leads to responsiveness in the direction of representativeness.¹⁷

59. Krislov defines bureaucracy, quoting Mosca, as the central power conscripting a considerable portion of social wealth inter alia for a fairly extensive range of public services and the higher the number of officials the more bureaucratic a society becomes.¹⁸ Redford refers to the hazards of bureaucracy as inertness through self-satisfaction and lack of responsiveness, separation from its society, and specialisation.¹⁹ Self states that a representative bureaucracy can be understood as a bureaucracy with the ideas and values of society as a whole, i.e. the recruitment of personnel across the spectrum of society.²⁰

60. These few views show that bureaucracy has many faces, but that some of the real or imagined dangers can be avoided by insisting on the responsibility of officials for their actions, and by a government system based on popular free will. Associated with this is the avoidance of divorcing organisation from society which can be achieved by a free flow of information. Furthermore, bureaucracy can be made representative by recruitment across the whole spectrum of society.

61. The question of politics as used here concerns the relationship between councillors and officials. It invariably happens in municipal councils that some group holding particular views becomes dominant, giving rise to the issue of political control. Self states there are difficulties in defining the role of politicians and administrators/...

administrators and that, while political view-points are often narrow and administrative view-points are often broad, there are areas of inter-action and conflict between the two arising from the styles and interests of the two groups. Politicians, as the ultimate controllers of administrative systems, need to demonstrate their control and this conflicts with the administrator's interest in effective delegation. Control can be achieved by requiring the submission of alternative plans, or the development of plans in stages, or the testing of an internally produced plan against the opinions of outside experts.²¹

62. Dunsire states that local government needs short-term public officials who can be easily got rid of, in order to allow assessment of performance and innovation, as well as permanent officials to give an assurance of the development of skills and expertise, experience and specialisation. The role of the politician is a reality which must be accepted.²² Appleby states that a principal function of public administration is to reconcile the functions of politicians and experts; politicians are needed but are judged by different standards. If one views politicians as partisan but representing public views while the administrator is not and does not, it becomes clear that the politician as the political and organisational synthesiser, has a controlling role.²³

63. The conclusion which can be drawn from these views is that officials must acknowledge and accept political control and not regard it as competitive or inimical to them since political activity in a democratic environment is a reality and the politician can use controls to harness the official.

64. What has been said supra leads in to the question of citizen participation. Krislov states that all ideologies distrust bureaucratisation; the democratic dilemma/...

dilemma is whether there is any value in the democratic electoral process if the crucial element is the discretion of an official. Bureaucracies themselves cannot be representative because organisations with tasks require certain skills and types of persons to carry out those tasks, but bureaucracies can become representative if they are responsive to political direction.²⁴ Redford sees participation as one of the tenets of democratic morality, which raises three problems, namely, 1. who shall participate; 2. the scope of participation, which ranges from elections to single issues; and 3. the problem of the interests of the few in particular policy confrontations. In essence, the problem is one of a balance in the representation of interests of varied quantities. Responsiveness is the central theme of democratic morality but wisdom, tranquility and order are competing claims of political purpose.²⁵

65. Self states that demands for public consultation and participation have grown rapidly in Britain reflecting subtle changes in notions of democracy. Administrators have some discretion but the use of this discretion is limited by formidable political imperatives. Populists seek to ensure that public policy decisions are made by the people, either by seeking the public "will" or by ascertaining the wishes of those who are closely affected by public service or decisions. All populist theories flounder on the problem of the vast differences of interest, knowledge and concern between members of the public on policy issues. Vesting greater power in the electorate tends to produce demagogic leadership. Three possible ways of ascertaining public wishes are:-

- 65.1. formal machinery for direct public consultation or participation in administrative decisions, such as an advisory body representing diverse view-points, but the selection of members will be intrinsically difficult. Giving limited administrative/...

administrative powers to elected bodies tends to create positions of sectional interest. A more idealistic and ambitious method is to test public policies in opinion polls, open meetings and other participatory devices, in which the public are presented with a choice of broad goals or policies that have been fairly clearly defined;

- 65.2. social surveys of popular needs, opinions and attitudes for checking the claims of interest groups, but the use of this method is likely to cool relations between the administrator and the interest group. The administrator's preference for consensus and harmonious relationships results in an under-use of this device but surveys are useful as a corrective to technocracy. Public service technocrats often have a captive audience and can impose their ideas on them; and
- 65.3. cost-benefit analysis, which allows a more comprehensive identification of interests than is possible from interest groups or consultative machinery or social surveys since unorganised or potential interests can also be included. Interests can theoretically be more objectively assessed and balanced but the difficulties are enormous since the definition, structuring and weighting of interests must still depend upon the analyst's or policy-maker's judgment, while the conversion of interests into monetary equivalents has grave theoretical and political objections.²⁶

66. The Town Clerk's responsibilities therefore do not encompass only organisational excellence or only accountability to political leaders but extend to the whole community. The fact that this wider responsibility is not found in a legislative enactment does not diminish its reality. This view does not overlook the fact that the Town Clerk is a fallible, human being, but the point is/...

is that the elected representatives are there for a relatively short period and do not necessarily have the skills and expertise to identify problems and to investigate possible solutions. The Town Clerk is accordingly in a unique position to provide this link between the municipal bureaucracy and the political element in the interest of the whole community.

NOTES

¹Martin Albrow, Bureaucracy, pp. 43-44.

²Herbert A. Simon, Administrative Behaviour, pp. 11-12.

³Herbert A. Simon, "The Executive as Decision Maker", in The New Science of Management Decision, pp. 4-6.

⁴Herbert A. Simon, Administrative Behaviour, pp. 71-72.

⁵Herbert A. Simon "Organisational Design" in The New Science of Management Decision, pp. 40-42.

⁶Herbert A. Simon, Administrative Behaviour, pp. 220-221 and 160-161.

⁷Emette S. Redford, Democracry in the Administrative State, pp. 154-155 and 190-191.

⁸Desmond Keeling, Management in Government, pp. 95.

⁹Barry H. Passett, Leadership Development for Public Service, pp. 1-2 and 9-11.

¹⁰Nicholas Henry, Public Administration and Public Affairs, pp. 33-41.

¹¹Susan Wakefield, "Ethics and the Public Service: A case for Individual Responsibility", in The Public Administration Review, November/December, 1976, pp. 662-664.

¹²Emmette S. Redford, Ideal Practice in Public Administration, pp. 117 and 116-116.

¹³Henry, op. cit., pp. 55-73.

¹⁴Henry, ibid, pp. 55-73.

¹⁵Henry, ibid, pp. 55-73.

¹⁶Martin Albrow, Bureaucracy, pp. 110-111.

¹⁷Albrow/...

- ¹⁷Albrow, op. cit., pp. 112-113.
- ¹⁸Samuel Krislov, Representative Bureaucracy, p. 22.
- ¹⁹Emette S. Redford, Ideal and Practice in Public Administration, pp. 63-65
- ²⁰Self, op. cit., pp. 242-244.
- ²¹Peter Self, Administrative Theories and Politics, pp. 152-153 and 161-162.
- ²²Andrew Dunsire, Administration : The Word and the Science, pp. 159-165.
- ²³Paul H. Appleby, Policy and Administration, pp. 47-49.
- ²⁴Krislov, op. cit., pp. 28, 35, 62 and 81.
- ²⁵Emette S. Redford, Democracy in the Administrative State, pp. 19-22 and 37.
- ²⁶Self, op. cit., pp. 278-283 and 287-289.

CHAPTER FIVE

THE INSTITUTE OF TOWN CLERKS OF SOUTHERN AFRICA AND OTHER MATTERS

THE ESTABLISHMENT OF THE INSTITUTE

1. The Institute of Town Clerks of Southern Africa, from now on referred to as the Institute, is a registered non-profit limited liability company with the main object of promoting and improving the technical and professional knowledge of Town Clerks, the foundation of which was preceded by several efforts to form a national body for Town Clerks. Because of difficulties caused by the Second World War the Institute was not formed until 1946. Prior to the formation of the Institute, provincial institutes were established in the Transvaal, Orange Free State and Natal.¹

2. During January, 1946, the Town Clerk of Cape Town informed the President of the Transvaal Institute that he intended convening a meeting of Cape Province Town Clerks to consider co-operating with other Provinces in the formation of a national body. After preliminary discussions in Cape Town a conference was held at Pietermaritzburg during 10th to 12th May, 1946, attended by three Town Clerks from each of the four Provinces and two Town Clerks from Rhodesia, then Southern Rhodesia. South West African Town Clerks were invited/...

invited to send representatives but were unable to do so. The conference unanimously decided to establish a national Institute and drew up a Memorandum of Association, Articles of Association and an Examinations Syllabus. Thereafter, a general meeting of all South African Town Clerks was held at Muizenberg, on 18th and 19th November, 1946, and those present took the following resolution:

That an Institute of Town Clerks of Southern Africa be established and that application be made for registration of the Institute under Section 26 of the Companies Act of 1926.²

3. The Memorandum of Association, Articles of Association, By-Laws and examinations syllabus were adopted with a few minor amendments. Registration was completed on 26th January, 1946. The first annual general meeting and conference of the Institute was held at the City Hall, East London, during 7th to 10th June, 1948.

4. The number of foundation members was made up as follows:

<u>Province/Territory</u>	<u>Fellows</u>	<u>Associates</u>
Cape Province	7	42 (of whom 7 were employed in Cape Town)
Natal	3	16
Orange Free State	2	10
Transvaal	7	33
South West Africa	1	1
Southern Rhodesia	<u>2</u>	<u>5</u>
	<u>22</u>	<u>107</u>

Grand total of foundation members = 129.

5. One of the papers at the first conference was delivered by Prinsloo, who started with three basic assumptions on the training and qualifications of administrators, namely/...

namely:-

- 5.1. the complexity of modern government in its various spheres requires skills, knowledge and aptitudes which the public employee cannot be permitted to pick up by chance;
 - 5.2. the acquisition of these skills, knowledge and aptitudes determines the efficiency with which modern government operates, which in turn affects the welfare and happiness of the community;
 - 5.3. training in local government administration cannot by itself create exceptional ability in an individual but can only improve and develop natural gifts which are there already.³
6. Prinsloo argued that in-service training by older and more experienced officials should be given during the first few years of employment, coupled with a local government administrative examination, involving studies in economics, political theory, public administration, constitutional law, elementary mercantile law, secretarial practice, accountancy or the elements of statistics or the theory of finance, local government finance, law affecting local government, local government administration, the law of the conduct of and procedure at meetings, the economics and administration of public utility undertakings, and a special subject to be chosen with reference to the students' actual work. The whole course of study should take four years.
7. The approved syllabus of the Institute in 1948 consisted of studies in law, one language, accountancy, economics, public administration and local government finance. The Institute felt, at the time, that this syllabus covered all aspects of a Town Clerk's work.

SOME/...

**SOME REFERENCES TO THE INSTITUTE'S
CONSTITUTION**

8. The main objects of the Institute as set out in the Memorandum of Association, are as follows:-

A. The main object of the Institute is as follows:

1. To promote and improve the technical and professional knowledge of Town Clerks and the training of prospective Town Clerks and with a view thereto to test the competence of such persons by examination, ...

B. Subsidiary objects are as follows:-

- (a) To confer on all matters affecting local government.
- (b) To confer and take proper action on all matters affecting the status, duties and responsibilities of Town Clerks.
- (c) To confer and take joint action with other Associations, Societies or bodies on matters affecting the promotion of the objects of the Institute.
- (d) To afford Legislatures, Local Authorities, Public Bodies and the Press information on Municipal Administration.
- (e) To establish and maintain a Bureau of Information relating to Local Government Administration; to facilitate reference, investigation and research into all aspects of Local Government Administration and further, to hold meetings and conferences relating to the objects and the affairs of the Institute.
- (f) To print and publish, sell, lend and distribute any communications made to the Institute or any similar Society and any reports of the proceedings or transactions of the Institute or any similar Society and any Bills, Circulars, Act of Parliament, Provincial Ordinances, or Official Documents, and to purchase, reproduce, print, publish and distribute, either independently or jointly with any other approved Association, any other books, papers, treatises or communications relating to the Law of Municipal and Local Government, Municipal Administration or cognate matters.

Provided/...

Provided, also, that it shall not be lawful for the Institute to impose on its members, or to support with its funds or otherwise, or to attempt to procure the observance by its members or others of any regulation or restriction which, if an 'object of the Institute, would make it a Trade Union'.

9. Two main impressions arise from the objects of the Institute, namely:-

9.1. The Institute does not exist to promote public or local government administration, but the technical and professional knowledge of Town Clerks, and the training of prospective Town Clerks. It is therefore not a vehicle for improving public administration, although its main object could lead to this result. Nevertheless administration is not the sole field of Town Clerks; members of many other disciplines, of whom engineers are probably the largest, are found as administrators in large numbers in municipal councils, and the training of administrators should at least follow basically similar lines.

9.2. Furthermore, the Institute exists to promote the interests of Town Clerks but there are many members who are not Town Clerks and who may never become or want to become Town Clerks. Of the 217 current memberships given in the June, 1976, Proceedings of the Institute, 125 represented non-Town Clerks, of whom it is estimated thirty-seven are in occupations which indicate they do not want to become Town Clerks or may not want to.

10. The Institute's Articles of Association will not be analysed clause for clause, but synoptic reference will be made to certain of their provisions.

MEMBERSHIP/...

MEMBERSHIP

11. There are two main classes of membership, Fellows and Associates, who must be White persons and who are elected by the Institute Council. Membership rights are personal and not transferable. To be eligible for election as a Fellow, the candidate must be an Associate who is a Town Clerk with not less than ten years' experience in a Town Clerks' Department, and he must satisfy the Council that the nature of his duties justifies his election. Associates must be twenty-one years of age, have passed the final examination of the Institute and either be Town Clerks, or have been employed in an administrative position on the staff of a Town Clerk for not less than five years; in addition the Council must be convinced that the candidate is a fit and proper person for election.

12. There are also Special Class members, who may be elected by the Council as Fellows or Associates. Special Class membership is open to those who, although Town Clerks or on the staff of a Town Clerk do not meet the requirements set out supra, and those whose duties are similar to those of Town Clerks, with the proviso that persons in this category are not entitled to vote.

13. Membership ceases if the member ceases to hold office on the staff of a Town Clerk unless the member decides to pay half of the annual subscription, thus losing his voting rights, or if in the opinion of the Council, the member is guilty of unprofessional conduct or conduct which prejudicially affects the welfare of the Institute.

DISTRICT COMMITTEES

14. District Committees are established in all four Provinces and South West Africa. The Cape Province and South West Africa District Committees are combined. Their purpose/...

purpose is to promote the objects of the Institute, to interchange views on local government administration, to co-operate with Provincial Municipal Associations, and to promote the interests, rights, powers and privileges of members. The members of the Institute in the area concerned form the membership of the District Committee and a general meeting must be held each year to consider a report from the District Executive Committee. This Executive Committee must consist of not more than seven persons, elected annually. Also elected annually are a District Chairman, an Honorary District Secretary, and a District Representative, with an alternate if deemed necessary, to serve as a member of the Institute Council.

THE INSTITUTE COUNCIL

15. This body consists of the President and Vice-President, both of whom are elected biennially by all the members, and five other members who represent the District Committees. No person may be a member of the Council unless he is a member of the Institute and a Town Clerk. The Council is empowered to manage the business and affairs of the Institute and may exercise all its powers except those which by statute and the Articles must be managed in general meeting. The Council also has financial powers and is empowered to hold, or cause to be held, examinations in any subjects pertaining to the profession of Town Clerk.

OFFICERS

16. Apart from the President and Vice-President, there must be a Secretary, a Treasurer, an Examinations Committee Secretary, and such other officers as may be decided upon from time to time.

BY-LAWS

17. The By-Laws are mainly procedural but also provide for an examinations committee, with the power, where deemed necessary, to appoint an external board of examiners.

EXAMINATIONS

18. The examinations of the Institute consist of courses taken at any University for degree or non-degree purposes in the following subjects:

Private Law I and II (also known as S.A. Law or Roman Dutch Law).
 Public Administration I and II.
 Political Science I.
 Constitutional Law I.
 Afrikaans I (or Practical Afrikaans) OR English I (or Practical English).
 Accountancy I.
 Municipal Administration OR Public Administration III.
 Economics I OR Interpretation of Statutes and Administrative Law.

19. In addition, candidates must pass the Institute's own examinations in Local Government Law, consisting of two papers, and Municipal Government and Administration (Essays), consisting of one paper. For Local Government Law a detailed knowledge of Provincial and certain Parliamentary legislation is required. Candidates for the course Municipal Government and Administration (Essays) are required to write two papers, each of ninety minutes duration, on topics relating to the government and administration of local authorities. Exemption of some or all of the courses which must be taken at a University can be applied for by persons who have had three years' experience, or even less in special circumstances, in a local authority in an administrative or clerical capacity, and who also hold one or more of the following qualifications:-

1. An/...

1. An approved university degree such as B. Admin., B.A., B. Comm., LL.B., etc.
2. The Attorneys' Admission Examination.
3. The Public Service Law Examination.
4. The Public Service Senior Law Examination.
5. The Diploma of the Institute of Municipal Treasurers and Accountants.
6. The Diploma of the Institute of Administration and Commerce.
7. The Diploma of the Chartered Institute of Secretaries and Administrators.

20. From 1978 the subject Municipal Government and Administration (Essays) will be replaced with the subject Local Government Administration. This new course will consist of two papers of three hours duration each, divided into the role of the Chief Executive and Chief Administrative Officer, and the scope and functioning of local authorities in the Provinces of South Africa or in Rhodesia or in South West Africa. The syllabus of this new subject had not been released at the time of writing.

RULES OF CONDUCT

21. The Institute has also adopted recommended rules of conduct for the local government official. These rules are not intended to change or substitute for any rule or law at present applicable to the officials of any local authority. They are based on experience and are intended to act as main guide-lines so as to assist officials to avoid conduct which has been shown to undermine local government, and to contribute positively to good local government. The rules are divided into Parts A and B with Part A containing all the "don'ts" or prohibitions, and Part B containing the "do's", or the positive aspects. There are twenty-five rules in all, of which a very brief summary is given:-

- 21.1. The essence of Part A is to inculcate a relationship between councillors and officials based on mutual respect and understanding, with the total exclusion of any form of self-aggrandisement or
favour/...

favour. Part A also recommends circumspection in the disclosure of information, and the avoidance of any suggestion of participation by officials in local or national politics and the maintenance of a guarded tongue.

- 21.2. Part B urges the cultivation of virtues such as fairness and justice, and a relationship with councillors and the public based on these and other virtues, such as good manners. Officials are also urged to be good stewards, obeying the law and showing loyalty to their employers. Where they control the activities of others, officials should endeavour to motivate them in their work.

THE GROWTH OF THE INSTITUTE

22. In 1948 the total membership amounted to 129. According to figures given in the Proceedings of June, 1976, the latest figures available at the time of writing, the membership is now as follows:

<u>Province/Territory</u>	<u>Fellows</u>	<u>Associates</u>
Cape Province and South West Africa	9	49
Natal	3	23
Orange Free State	2	14
Rhodesia	1	5
Transvaal	<u>12</u>	<u>70</u>
	<u>27</u>	<u>161</u>
Special Class Members	-- 29	
Total membership	= 217	

This means that in twenty-eight years, the Institute increased by eighty-eight members, representing a growth of some sixty-eight per centum.

A CASE STUDY IN LABOUR POLICY

23. The Institute's Memorandum of Association prohibits any trade union activity and since Institute membership cannot automatically be acquired by all Town Clerks, it is not sufficiently representative to act as a trade union, nor is it registered as a union in terms of the Industrial Conciliation Act, 28 of 1956. However, the recent trend for the Central and Provincial Governments to interfere in local authority labour relations, and in particular, the salary and protection of Town Clerks, must have created many anxieties for the Institute and its Town Clerk members. Unless done for the best of motives, this interference can have long-term effects on the quality of Town Clerks and therefore on the Institute. The Secretary of the Institute, Mr. W.A. Hill, in a letter dated 31st August, 1976, writes that--

... the Institute has made repeated representations to the Minister of Labour for the re-inclusion of Town Clerks with the provisions of the Industrial Conciliation Act, 1956, but that, thus far, such representations have not been successful.

24. Paragraphs 29 to 33 of Chapter Three deal with the exclusion of Town Clerks from the protection given by the Industrial Conciliation Act, 28 of 1956, and paragraphs 34 to 48 of the same Chapter deal with salary limits.

25. The Institute's representations to the Minister of Labour are confidential, but the General Secretary of the South African Association of Municipal Employees (Non-Political), Mr. J.J. Smit, has generously provided copies of what he correctly calls the Association's "... rather voluminous ..." documentation on the subject of the status of Town Clerks in terms of the Industrial Conciliation Act, 1956. With regard to relations between the/...

the Institute and the Association, Mr. Smit, in a letter dated 1st March, 1977, writes as follows:-

... there is no connection at all but we have co-operated with the Institute in the matter of the protection and furtherance of the interests of town clerks as employees.

Mr. Smit added that while Town Clerks are encouraged to join the Association, it appreciated that Town Clerks could not actively participate in all the Association's activities. The protection and benefits enjoyed by the Association's members were not limited to the Industrial Conciliation Act, 28 of 1956, and the Association had frequently assisted Town Clerk members in civil and criminal cases, often at great expense.

26. The counter-view to this is that the Town Clerk who is a member of the Association has a "built-in" loyalty factor to an outside body and as a result of divided loyalties cannot effectively advise his council on labour disputes, or be an effective chief executive; this problem cannot be settled by an absolute statement for or against the Town Clerk being a member of the Association. On the one hand, Town Clerks would want to acquire the maximum protection which organised labour can provide, while on the other hand, the council may feel that a chief executive who belongs to a trade union is hardly in a position to advise it on a dispute between the council and that union. To some extent the answer to the problem depends on something which cannot be reflected in a formula, namely, the personalities of the individuals concerned but the answer may lie in a compromise along the lines that the Town Clerk should consult with his council, and if they have confidence in his impartiality and objectivity, he may join the Association with their consent. But if this consent is withheld, the Town Clerk should not join.

27. Returning/...

27. Returning to the voluminous documentation provided by Mr. Smit, the Association as far back as 24th December, 1954, presented a memorandum to the Minister of Labour, for consideration by the Select Committee considering amendments to industrial labour legislation. As the draft legislation upon which the Association based its representations to the Select Committee had not mentioned the exclusion of Town Clerks, the memorandum had not dealt with the issue. It was only when a Bill was drafted that the exclusion of Town Clerks appeared for the first time as an issue.⁴ The Association requested an interview with the Minister of Labour, but was informed that the exclusion of the chief administrative officer originated with the Marais Commission and was supported by the Transvaal Provincial Council Executive Committee. The exclusion was not to have been automatic but would have depended on the local authority designating one of its officials as the chief administrative officer in terms of any law. The Minister considered the proposal as both justified and reasonable, viewing the chief administrative officer as in most cases being more akin to an employer than an employee.

28. The Association riposted that the Marais Commission had not recommended that the Town Clerk be the chief administrative officer but that a new post of principal officer be created, and went on to point out that in the Cape the protection of Town Clerks by Ordinance had been removed because the Act gave adequate protection; that in the Orange Free State, local authorities did not have to designate Town Clerks as chief executive and administrative officers since this followed by operation of law upon appointment; and that a reasonable construction of the Marais Commission Report would be that the new "principal officers" only and not Town Clerks should be excluded from the protection given by the Act.⁵ The Minister did not grant an interview but replied that the amending/...

amending legislation had not solely arisen from the Marais Commission Report but also because local authorities found themselves in an untenable position:-

...under a system whereby they can be opposed by their chief administrative officers in matters concerning the relationship between them and their employees ... officer should ... be regarded as being more akin to ... an employer than an employee in the ordinary sense.

29. The correspondence continued, with some gaps during which nothing happened, and was resumed during 1967. On 13th February, 1968, the Association wrote to the Secretary for Labour, stating that the Minister had based his arguments on three main considerations, viz:

- 29.1. the chief administrative officer's position was more akin to that of an employer than an employee. The Association saw no difference between the position of chief administrative officer and that of any other employee, since his conditions of service are regulated in the same way as those of other employees;
- 29.2. the exclusion of chief administrative officers had not been intended to operate to the detriment of Town Clerks under any existing system of local government. If any abuse by local authority necessitated adjustment, the matter would be taken up. Although the system in the Cape Province had not changed, every Town Clerk had been excluded from the Act's protection, as a result of amendments to the Cape Ordinance. The position had become absurd and untenable: the Provincial Administrations were increasingly interfering in local government employer-employee affairs;

29.3. local/...

- 29.3. local authorities found themselves in an untenable position under a system whereby they could be opposed by their chief administrative officers in matters concerning the relationship between them and their employees.

The Association pointed out that this refuted the argument that chief administrative officers were more akin to employers than employees. The so-called "untenable position" was purely hypothetical; it was something that had never happened and need never arise, because a local authority was at liberty to appoint its chief administrative officer as a representative at negotiations in labour matters.

30. In a memorandum sent to the Secretary for Labour on 23rd April, 1971, the Association, after dealing again with the points raised above, went on to remind the Secretary for Labour that he was:-

... not aware of the fact that there have been determined efforts by Provincial Administrations (especially the Transvaal Provincial Administration) to usurp the functions of local authorities in respect of their employees. These efforts reached such proportions in 1966 that the Honourable Minister had to intervene as a result of our letter ... dated 2nd August, 1966 ... We also found it necessary to write to you in connection with interference by Provincial Administrations ... it must be clear that the Provincial Administrations used the exclusion of town clerks as the thin edge of the wedge to encroach on the relationship between employer and employee in local government service.⁶

This interference could not be justified; it was not only an unjustified interference with the autonomy of local authorities, but also with the rights of trade unions to negotiate freely with the employer direct.

31. The memorandum went on to state that the Provincial Administrations were not satisfied with the exclusion of

Town/...

Town Clerks from the Act, and soon saw fit to prescribe to local authorities the maximum salaries which could be paid to Town Clerks, and other conditions of service, and this contradicted the original reason for excluding the Town Clerk from the Act, namely, that as a quasi-employer, he could oppose the council. Neither councils nor Town Clerks had any say in matters such as conditions of service but were merely puppets controlled by the Provincial Administration. The ultimate goal of the Provincial Administrations was the complete control of the conditions of service of all local authority employees. It had been said in the Transvaal Provincial Council that since the promulgation of the 1960 legislation regarding Town Clerks, there had developed an increasing tendency to supplement the salaries of Town Clerks and other senior officials by all sorts of allowances, thereby circumventing Provincial control over Town Clerks' earnings. The Provincial view was that control was needed to counter the rising salaries paid to municipal employees as a result of competition for staff between local authorities. Increases in salary were permissible provided it was done in an orderly manner. The rationale seemed to be that the Provinces had authority over local authorities and that the structure of municipal salaries, conditions of service, etc., was intimately tied up with local government, and hence the Province should have a say in these matters.⁷

32. The Provinces had also gained control over the salaries of municipal departmental heads through a second amendment to the Act. On the nine occasions up to 1971 that the various Provincial Administrations had referred increases in the salaries of departmental heads to compulsory arbitration, the Provinces had been unsuccessful because Provincial objections had been based on the salaries they were prepared to approve for Town Clerks. It would be interesting to speculate whether Provincial Administrations would be prepared to subject their salary determinations/...

determinations for Town Clerks to the judgment of an independent body such as the Industrial Tribunal.⁸

33. Salary was, however, only one aspect of the problem. Wrongs in the form of unjust dismissals or amendments to conditions of service had been done by councils to their Town Clerks, and, although Provincial approval had been required, in the Association's experience Town Clerks, especially in the smaller local authorities, were left to the mercy of their employers, with the Provincial Administration either "... acting as passive spectators or active participants in prejudicing the employee...". The Association cited four cases where Town Clerks had been arbitrarily dismissed without any form of trial, and without any opportunity of defending themselves. The dismissals might have been justified but without any form of trial, this was not proved. In the case of a Divisional Council, the Secretary/Treasurer's conditions had been unilaterally and unlawfully altered, and although the Provincial Director of Local Government had informed the Council that its action was ultra vires, the council refused to re-consider the matter. The only possible remedy in these cases is for the employee to go to court, at great cost to himself and his trade union, whereas a settlement under the Act would be much less costly.⁹ Town Clerks had no redress where their salaries were concerned, not even a legal one, and were completely at the employer's mercy. While Provincial Administrations prescribed maximum salaries, they did not prescribe a minimum, nor did they compel employers to pay the remuneration they prescribed.

34. As further evidence of Provincial interference in labour relations, the Association submitted a 1970 Natal Provincial Circular to all Town Clerks in that Province prohibiting the payment of long service, family, housing and other allowances to Town Clerks, and only allowing the/...

the local authority to pay for mileage travelled by Town Clerks using their private cars on council business up to a maximum of 400 miles per month. The Association concluded that far from being employers, Town Clerks were more in need of protection than most other employees.

35. Between April, 1971 and October, 1973, the Association sought an interview with the Minister of Labour, but learned on 23rd October, 1974, that the Minister had rejected the memorandum. In this period the Association's General Secretary had had to write eleven letters in order to obtain a decision. One of the major causes of the delay was that at or about December, 1971, the Department of Labour decided to refer the memorandum to the Provincial Administrations for their comments and it took until May, 1973, for these comments to be given. The Association's representatives finally gained an interview with the Minister on 22nd October, 1973, and on 23rd October, 1974, the Secretary for Labour wrote to the Association, informing it that the Minister had rejected its representations, adding that the interference by Provincial Administrations could not be stamped as undesirable, particularly when it is a function of Provincial Administrations to apply a certain degree of control over local authorities. It was not the intention of these Administrations to interfere unnecessarily in the domestic affairs of local authorities. The Secretary for Labour also took the rather strange view that matters of this sort should be dealt with between the Association and the Industrial Council for Local Government Undertakings in the Transvaal and with the United Municipal Executive in respect of the other Provinces.

36. The Association on 23rd June, 1975, registered its dissatisfaction with the Minister's decision adding that it was consulting with the Institute with a view to preparing another memorandum, which would follow. The Association suggested a joint interview between it, the

Institute/...

Institute and the Minister. The Institute was granted an interview. There the matter seems to rest.

37. The issues raised in this Chapter will be commented on in the final Chapter. The issues raised in the case study to some extent involve the centralisation-decentralisation argument which is discussed in Chapter Two under the heading Democracy and Local Autonomy.

NOTES

¹Proceedings of the Institute, June, 1948.

²Proceedings of the Institute, June, 1948.

³N. Prinsloo, "The Training and Qualifications of the Administrator in South African Local Government", Proceedings of the Institute, June, 1948.

⁴Memorandum on Certain Provisions of the Industrial Conciliation Bill, dated 24th December, 1954.

⁵Document to the Minister of Labour titled "Memorandum" and undated.

⁶Memorandum titled "Memorandum Re Town Clerks" and undated.

⁷Memorandum titled "Memorandum Re Town Clerks", pp. 4-6.

⁸Memorandum titled "Memorandum Re Town Clerks", pp. 6-7.

⁹Memorandum titled "Memorandum Re Town Clerks", pp. 7-8.

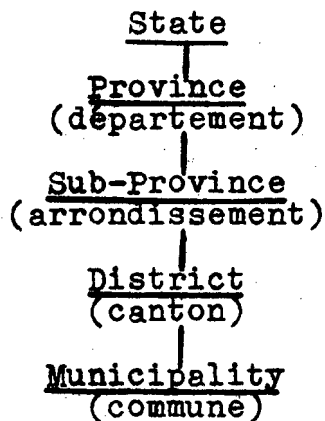
CHAPTER SIX

A BRIEF STUDY OF OVERSEAS LOCAL GOVERNMENT

1. The purpose of this brief study is to establish the role of chief officials and the systems they work under in order to determine whether there is a prima facie case for improvements in the role of the South African Town Clerk. The study is referred to as being brief since a detailed study would require a full investigation into the historical and socio-economic situations of the countries concerned. In addition, it must be remembered that constitutional differences exist and a simple transfer of system could be simplistic. For the purposes of this Chapter only municipalities in general and not other units of local government or exceptional cases, will be commented upon.

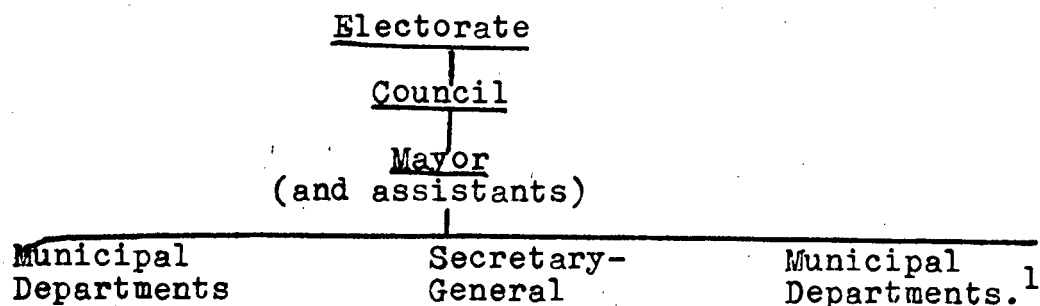
FRANCE

2. Humes and Martin diagrammatically set out the pattern of French Government units as follows:



with/...

with the structure of municipal government diagrammatically given as follows:-



3. This system has been in operation for some 177 years. The existence of Provinces, ninety in 1969, and the municipalities, 3800 in 1969, are guaranteed by the Constitution, with powers and duties laid down by law. These two units are the only areas of decentralised local administration. The basic powers and duties of municipalities are laid down by law and all have legal personality, have the same structure and carry out similar functions.²

4. The representative body is the council, varying in size from nine to thirty-seven members, elected for a six-year term of office by majority vote on the basis of two rounds of elections. The electoral system differs depending on whether the municipality has less or more than 30 000 inhabitants. Where there are less than 30 000 inhabitants voters may vote for one or some of the candidates on the list, indicate preferences or even cross out or add names; in municipalities with more than 30 000 inhabitants, voters must vote a complete list. In general, elections tend to be more political in the larger areas, and more related to the person in the smaller areas. Each council elects a mayor (maire) and from one to twelve assistant mayors, and this group forms the corporation or municipalité. The mayor is legally charged with municipal administration but he may delegate part of his functions to his deputies or, in certain cases, to a member of the council.³

5. Councils meet four times a year, or when special meetings are called. The functions of the council include:-

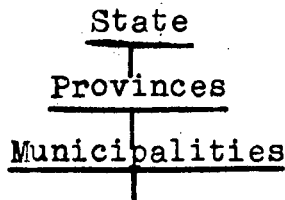
- 5.1. the administration of municipal property--
buying, selling, etc.;
- 5.2. finances such as adopting a budget, setting
taxes and contracting loans;
- 5.3. personnel matters--determining size, organisational
structure and rates of pay;
- 5.4. the provision of roads and the naming of streets;
and
- 5.5. the creation of social services and economic
enterprises.⁴

6. The Mayor presides at sessions of the council, and executes its decisions. In the larger municipalities daily administration is often supervised by a secretary-general, to whom departmental heads report, and who in turn reports to the mayor. In those municipalities the mayor serves primarily as policy-maker and political leader. The administrative functions of the mayor are: supervision over public works; representing the municipality in legal matters; dealings with the central government; supervising personnel; drawing up the council agenda; initiating matters for the council to consider; and submitting an annual budget for council approval. In financial matters he is assisted by a paymaster appointed by the state. The mayor also has certain responsibilities to perform for the state, e.g. collecting statistics and registering births, deaths and marriages. Control over municipal government by higher authorities is extensive, covering the fields of finance and administration.⁵

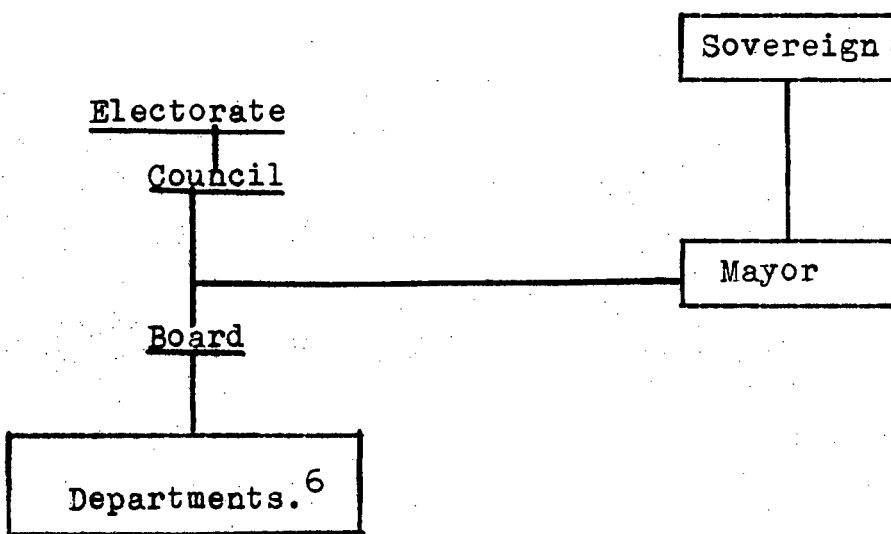
THE/...

THE NETHERLANDS

7. The pattern of government units in the Netherlands can be expressed as follows:



and the structure of municipal government as follows:-



8. As Floyd remarks, the Provincial system of South Africa is similar to that of Holland and Belgium.⁷ The present Kingdom of the Netherlands has existed since 1815 but was modified in 1848 and 1890. The country is divided into eleven Provinces and 994 municipalities (gemeenten).⁸ Dutch municipalities all have the same powers and legal status, with duties and responsibilities divided among the council (gemeenteraad) the board (burgemeester and wethouders) and the mayor (burgemeester).⁹ The number of councillors varies from seven to forty-five and they are elected by popular vote for a period of four years by means of proportional representation.¹⁰

9. The Council decides on all matters not delegated to the board, to committees, or to the mayor. The functions of/...

of the council include -

- 9.1. the fixing of tax rates;
- 9.2. the enactment of regulations for the maintenance of public order, morals and health;
- 9.3. the construction of roads, bridges, airports, tramways and the like;
- 9.4. drawing up the municipal budget;
- 9.5. the contracting of loans;
- 9.6. the purchase and sale of municipal property;
- 9.7. the appointment of certain officials; and
- 9.8. the enactment of by-laws for the execution of central government laws and decrees in matters such as building, housing, the sale of liquor, etc.¹¹

10. Councils in the large cities meet fortnightly, others less often. The board, which consists of the mayor and from two to six other council members specially chosen (wethouders), is responsible for daily administration. In the larger municipalities individual board members are responsible for supervising the execution of council policy by one or more departments, but overall co-ordination is exercised by the board as a whole with the mayor playing a leading role. The board is also obliged to carry out functions delegated to it by the state, the provincial government and the council.¹²

11. Committees, which could be advisory or have limited executive powers, are permissible. The chief executive is the mayor, and he is appointed by the Crown, upon the nomination of the Queen's Commissioner in the province, for a six-year term of office. The mayor, although appointed by the Crown, is independent of the central government. His role is two-fold: first, in his municipal functions he serves as chairman of the council, in which he/...

he has no vote, and of the board, where he has a vote. Primarily his duties involve co-ordinating daily administration, signing correspondence and official documents, with the municipal secretary, representing the municipality in litigation, and ceremonial functions. Second, as local representative for the central government, he has duties relating to avoidance of violations of national policy. There is a considerable amount of supervision by higher authority. The municipal secretary is responsible for the daily work of municipal employees, and functions as personnel manager for his council.¹³

THE FEDERAL REPUBLIC OF GERMANY

12. The Federal Republic of Germany is divided into provinces, districts--which may be units of local self-government--and municipalities which are units of local self-government. The functions of municipalities is to undertake all local tasks not assigned by law to other authorities and it is exceptional for state authorities to exist parallel to the municipalities, which are the lower level in a two-tier system of local administration headed by the district. However, some 140 of the larger towns are detached from the districts and themselves undertake all governmental tasks within their territories.¹⁴ As the various states create municipalities, differences do exist but there are certain common principles, namely: councils are elected and representative bodies and the most important organ in the municipality; elections are universal, direct, free and equal; municipalities have the right to regulate and be responsible for all local affairs within the framework of the law; and chief executives are either elected by the voters or the council.¹⁵

13. The functions of the municipalities, that is, responsibility for local affairs within the framework of the law/...

may be:-

- 13.1. voluntary, and carried out according to the independent decisions of the municipalities as based on local needs and according to the law;
- 13.2. representative, being tasks which the municipalities are obliged to carry out by law; and
- 13.3. tasks which are delegated by the federal or state governments.

The central government supervises the first two functions in respect of the observance of the law, while it issues instructions in respect of the third function. Outside these exceptions, the state governments supervise municipalities.¹⁶

14. Four differing structures can be distinguished among West German municipalities, namely:-

- 14.1. The Strong Mayor-Council System, in which the council of from five to fifty-one members elected for four years is the main representative organ. The council elects a mayor as its chairman and as chief executive officer of the municipality.
- 14.2. The South German Council System, in which the mayor and council, consisting of from six to sixty members, are directly elected for a four year term, and in which the council is the main representative organ. The mayor is chairman of the council and its official representative.
- 14.3. The Council-Board System, in which the council of from five to eighty members elected for four years is the main representative organ, with its own elected chairman who presides over council meetings. There is also a Board of from six to twelve members, which serves as the executive organ of the municipality. The Board designates one of its members as both chairman of the Board and mayor of the municipality.

14.4. The/...

14.4. The Council-Mayor-Director System, in which the council is responsible for municipal administration, and elects one of its members as mayor and chairman. The mayor is the political head of the municipality, while the administrative work is the responsibility of the chief executive officer who is appointed by the council for a twelve year period.¹⁷

15. For the most part, the councils establish general principles, according to which administration is carried out, make by-laws on local matters, adopt an annual budget and deal with general financial policy, and delegate functions to the executive organ and committees.¹⁸ The boards and executive officers are generally responsible for drawing up a budget, executing council decisions, discharging municipal business, defining the duties of departments and officials, appealing decisions of the council which are contrary to law, discharging obligatory tasks prescribed by the state government, and seeing to the general administration of public institutions and enterprises.¹⁹

THE UNITED STATES OF AMERICA

16. The United States of America at local level, has both urban and rural municipalities and the rural municipality is analogous to the divisional council or peri-urban area board system of South Africa. One of the strongest forces behind municipal reform and experimentation with different forms of municipal administration was public reaction to graft and corruption at municipal level.²⁰ American urban municipalities are creatures of their state governments, with varying methods of incorporation. Generally, the functions of American municipalities include police and fire protection, public works, the provision of various amenities, public utilities, physical planning/...

planning, and sometimes public health, airports, harbours and low-cost housing.²¹ State sanction is required for the incorporation of municipalities, but a popular referendum is usually also required, i.e. the people have an element of voluntary choice. State supervision also exists in the form of administrative supervision. To some extent, the municipality can choose the type of structure it wishes for itself, e.g. the strong mayor or one of the other systems, and this is known as the optional charter.²²

17. The three major forms of municipal government in the United States of America are:-

17.1. The Mayor-Council Form.

This form has two subdivisions, namely, the weak mayor-council or council committee form, and the strong mayor-council form. In the mayor-council form in general, there is an elected council of from three to fifty members with periods of office varying from two to four years. The mayor usually acts as the council's presiding officer and the council's functions include: law-making at local level; adopting an annual budget and general financial policy; and establishing taxes. The chief executive is the mayor who is popularly elected. The mayor may be allowed to propose laws and resolutions, to prepare a budget, to veto selected measures passed by the council, with the reservation that his veto may be overridden by a majority vote of the council, and sometimes to investigate municipal administration. The strong mayor exercises leadership over departments and does not have as many restraints or limitations on his executive authority as the weak mayor. In the weak mayor system the council itself performs administrative acts and committees are often appointed to study and make recommendations on various activities, and/...

and possibly also to supervise directly the daily administration of departments. The power of the weak mayor is also limited in his power to act without council approval and by heads of departments being directly elected and therefore not accountable to him.

17.2. The Commission Form.

This form is now used by about thirteen per centum of American municipalities with populations exceeding 5000. A commission, or council, of from three to seven members is elected for a term of four years to direct municipal activities. The commission itself passes legislation, fixes tax rates, makes appointments and dismissals, determines the annual budget, and adopts general policy. Individually, members supervise the daily administration of departments, the number of which usually co-incides with the number of commissioners. There is also a mayor who is either elected by the voters or chosen by the commission, but who does not have executive powers.

17.3. The Council-Manager Form.

This form is used in over 2000 cities and in the majority of cities with a population exceeding 5000. The council of from three to nine members elected on a non-partisan basis is the policy-making body and passes ordinances; sets tax rates; determines the budget; and hires the manager to serve at its pleasure. The mayor is either elected directly or selected by the council from among its members. The mayor's role is generally ceremonial and formal but is tending, in some of the larger cities, to develop into that of a strong political leader. The manager is the chief executive and directly supervises the administration; appoints

all/...

all or nearly all departmental heads, whom he may also dismiss; and is the general co-ordinator of all governmental activity. His duties are defined in a charter. The manager also advises the council on the formulation and revision of policy; sees to the preparation of the annual budget; reports to the council; and presents an annual report to the electorate on general municipal conditions.²³

THE UNITED KINGDOM

18. After a long period of relative inactivity, British local government underwent reforms in the Nineteenth Century--see Chapter One. In recent years considerable reforms have been undertaken both in respect of the structuring of British local government and its management. Prior to the Local Government Act, 1972, which took effect on 1st April, 1974, the general pattern of local government in the United Kingdom was a ranking of local authorities as they were shaped at the end of the Nineteenth Century, often using boundaries which could be traced back to feudal times.²⁴ The general pattern, starting from the top and excluding the Greater London Council, were County and County Borough Councils in the first rank, while in England itself there were Parish Councils and Parish Meetings.²⁵ The need for change was recognised but was slowed down by clashing local interests and this need itself centred on imbalances in size, outdated differentiation between urban and rural districts and, most important of all, the fact that many top tier units were too small.²⁶ The 1972 Act, which applies to England and Wales, created two distinct structures, one for the main urban centre, and another for mixed urban and rural areas, based on four sub-systems.²⁷ These structures are shown in Appendix Eleven.

19. Councillors are elected for a four-year term,
except/...

except London where the three-year term is retained. The electoral pattern is not uniform. County Councils are elected every fourth year as a whole on the basis of single member constituencies, whereas in metropolitan districts, a third of the councillors are elected in each year when there is not a County Council election. Non-metropolitan districts can either opt for whole council elections as the Counties have, or election by thirds as happens in the Metropolitan Districts, with a consequent choice between single-member wards or three-member wards. The system adopted, where there is a choice, will largely be dictated by political forces. In other words, the annual election system is favoured where political intervention in elections is strong.²⁸

20. The functions of the councillor are given by Richards as follows:-

- 20.1. he is the representative of the people who elected him;
- 20.2. in the case of a county councillor in particular, he is an envoy to higher authority;
- 20.3. he must act corporately as an executive agency;
- 20.4. he must express opinions on policy to other authorities and bodies;
- 20.5. in the case of second-tier local authorities, he should ask councils above them to do specific acts;
- 20.6. he should work effectively as a committee member seeing that committees are an integral part of local government;
- 20.7. he should use the powers available for co-option of outsiders onto committees in order to widen the range of specialised knowledge and experience available; and
- 20.8. he must have an ethical, and not a pecuniary, motive towards his work.²⁹

21. The/...

21. The re-structuring of local government did not alter the essence of the general functions of local authorities, which are to govern within statutory limits, to appoint staff, to enact local legislation and to levy and collect local taxes. Considerable financial assistance is given by the central government, which also supervises local government to a fairly considerable extent.³⁰

22. The Report of the Committee on the Management of Local Government (Volume 1) usually referred to as Maud One, noted the absence of any managing body, i.e. an executive form of management, and recommended that local authorities should establish a "management board" which would function as an overall formulator of policy recommendations, to supervise and co-ordinate the whole organisation, and to deal with business where there is no delegation to the principal officer or to make recommendations where the board does not have delegated powers-- see paragraphs 96-99, 158 and 162.³¹ Maud One also distinguished between decision-making in committees and detailed administration by committees, concluding that

The virtues of committees are ... outweighed by the failures and inadequacies of the committee system-- see paragraphs 127 and 128.

Maud One stressed that the committee system leads to the departmental separation of staff; that co-ordination was necessary; and that efficiency and economy should be the only criteria. The Commission recommended that functions and responsibilities between councillors and officials should be so divided as to leave the former with overall direction, control, objective-setting and review of progress and performance, while the latter would provide advice to enable the councillors to carry out their functions, be responsible for day-to-day administration, and identify and isolate particular problems for council decisions. This view refers to the policy-administration dichotomy discussed in Chapter Two.

23. The/...

23. The Report of the Committee on the Staffing of Local Government recommended that the Clerk, i.e. County or Town Clerks, should have the following position and functions:-

- 23.1. the head of the council's paid service;
- 23.2. responsibility over all departmental heads as far as was necessary for the efficient management and execution of the council's functions, excluding officers exercising statutory powers or professional discretion or judgment;
- 23.3. ensuring that decisions by the council and its committees are carried out;
- 23.4. ensuring that issues are first considered inter-departmentally, and that all professional and technical advice is available to the council or its committees;
- 23.5. the co-ordination of major objectives and decisions, with all departments and committees made aware of this;
- 23.6. principal officers should be instructed to co-operate and consult with the Clerk on a continuous basis to enable him to discharge his responsibilities effectively; and
- 23.7. where circumstances make it possible, he should be divorced from professional work and extraneous duties to enable him to concentrate on his duties as the head of the council's service.³²

24. Finer writing in 1933, made the point that Clerks of County Councils wanted a statutory provision that Clerks must be members of the legal profession and they resisted the appointment of administrators who had received a general University education, principally because the councillors themselves were the administrators. Finer pointed out that in practice, when Clerks were appointed, it/...

it was organising ability which was first sought, with the law regarded as being of lesser importance.³³ This refers to the specialist-generalist dichotomy, dealt with in Chapter Two. The qualifications of Town Clerks is discussed in Chapter Seven.

25. Maud One also dealt with the position of the Clerk, recommending that he should be the head of the council's service, so far as this is necessary for the efficient management and execution of the council's functions, responsible to the management board and through it to the council, with the duty of ensuring:-

- 25.1. the effectiveness and efficiency of the organisation and the co-ordination of its activities;
- 25.2. that an adequate service for the operation of the management board is provided;
- 25.3. that effective control systems are devised and applied;
- 25.4. that principal officers under his leadership work as a team, with officers being given opportunities for self-development and responsibilities to match their talents, and that initiative and innovation be encouraged;
- 25.5. that committee secretarial services are provided; and
- 25.6. that an effective organisation be set up to secure economy in the use of manpower.³⁴

26. The Report of the Study Group on Local Authority Management Structures, also known as the Bains Report made the point that it was not possible to provide separate areas of activity for councillors and officials. Councillors should not only be decision-makers but should also be policy-formulators. Each local authority should establish a policy and resources committee to provide co-ordinated advice to the council in the setting of

objectives/...

objectives and policy, and this committee should also exercise overall control over the council's major resources, in addition to co-ordinating and controlling the implementation of the council's programmes. Each authority should appoint a Chief Executive to act as leader of the officers of the authority and principal adviser to the council on matters of general policy. The post of Chief Executive should be free of departmental responsibilities and open to persons of any or no profession; the qualities of the man himself would be more important than his professional or academic background. Each local authority should establish a formally recognised management team of Principal Officers under the leadership of the Chief Executive, responsible for the preparation of plans and programmes in connection with the long-term objectives of the council and for the general co-ordination of the implementation of those plans.³⁵

27. The Bains Report raises the issues of policy and administration, as well as the specialist-generalist dichotomy, both of which are discussed in Chapter Two. Conclusions which may be drawn from this Chapter are discussed in Chapter Seven.

A CRITICISM OF THE BAINS REPORT

28. Two concepts are being evolved in British municipal administration, namely, the meaning of chief executive and corporate management. The Bains Report subscribed to the Maud One view that there should be one person as the head of a council's paid service but the Bains Report postulated that experience had shown the need for a co-ordinator but not for an all-powerful chief executive and, because of a human relations problem, his first task should be to gain the respect and esteem of his colleagues.

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The range of issues and problems facing any local authority is too numerous for the chief executive to grasp in detail and heads of departments must retain responsibility for the effective and efficient running of the services for which their departments are responsible. This means that the chief executive is primarily a team leader and a co-ordinator, as well as the council's principal adviser on matters of general policy.³⁶ The job description included in the Bains Report accordingly gave executive authority but also established an imperative for corporate management.

29. Humes and Martin state that the post of the chief executive is essentially and pre-eminently the focal institution in local government structure, whether he is elected or appointed. He co-ordinates the representative and staff aspects of local government, works closely with the council in the development of policy and directs the staff in implementing it. Where power centres in the chief executive, he seldom engages in a public discussion of policy, and representative government suffers through a lack of public participation and interest. There has always been a human tendency to focus attention upon key individuals to take the initiative in formulating and carrying out programmes of action. The retention of meaningful organs of representative government depends largely upon the capacity of elected organs to provide a matrix for strong responsible executive leadership without which the opportunities for focused initiative and co-ordination are limited.³⁷

30. Hill states that the Bains Report was weak in the delimitation of roles and functions, particularly the chief executive. Local government reforms were placed in doubt when they only appeared workable on the basis of elaborate informal arrangements.³⁸ Stewart, while agreeing with that part of the Bains Report job specification providing for the chief executive to be the head of/...

of the service with authority over all other officers, adds that elsewhere in the report:-

... the soft language of consensus seems to cloud the sharp words of that definition. The authority is given in theory but its exercise in practice is blocked.

Stewart argues that, unless the chief executive is the council's main adviser on resource allocation, and unless he, under political leadership, becomes the main link between that leadership and other officers, his role can be written off. Chief executives will either evolve towards a position of more clearly defined authority, working to achieve consensus but not dependent on it, in which case the organisational dogmas of Bains will be modified, or he will regress to the role of the traditional clerk. In the future, the chief executive might build up an executive office based on the link between treasurer and secretary, or on certain central functions such as personnel and corporate planning.³⁹

31. Perhaps a lot of the controversy surrounding the Bains Report would disappear if a less dogmatic approach towards a chief executive were adopted, in terms of which he would be expected to have certain qualities and attributes based on current public administration thinking, but reviewable as both circumstances and public administration change and grow? By doing so there will no longer be a need to pre-empt both the present and the future by attempting in the past to define functions in so legalistic a manner. The approach just suggested is the approach followed in this thesis.

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THE TOWN CLERK AS A PLANNER

32. In considering the Town Clerk as the chief executive, it is also relevant to consider the extent to which the chief executive is or should be a planner. In South African municipal circles there is a myth that the city or town engineer is the municipality's planner and this view is based on the misconception that physical or town planning is planning and that all other activities are not. Spiers states that no modern government can do without planning, and planning is reflected in politics; it is impossible for a democratic government to avoid planning and, in public administration, the pressures towards the creation of permanent structures and a planning approach have strongly influenced modern bureaucracies.⁴⁰ Spiers also identifies four main categories of planning to show that the political environment influences and determines the way planning aims are formulated, e.g. in a socialist society, planning would include strong government control.⁴¹

33. In Self's view a description of an administrator who is a planner postulates open-mindedness and a readiness to explore the cost and consequences of alternatives. Self also states that planning requires harmonisation of interests along systematic lines, and on a fairly durable basis.⁴² Meyer states that societal planning means the drawing up by government of plans for social activity. This is what most South African municipalities do. Planning is substantive, or a function which establishes the main outlines of a scheme for the collective behaviour of specified groups of the population, irrespective of the costs, which must be held within the limits of the budget. The fiscal policy of a government is a deciding factor in administrative activity but lies beyond the scope of public administration. Meyer adds that

"... the/...

"... the life nerve of planning is a separately organised planning system ..." but with the day-to-day administration integrated into the planning system, especially the feedback function.⁴³

34. The most significant point arising from what has been said supra, is that planning needs to be centralised and this fits in with the suggested concept of a municipal chief executive who leads a multi-disciplinary team in order to achieve common goals in response to the needs of society. These views also support the suggested frame-work for an ethical Town Clerk using an open model of organisation, and who has regard for public views and a social conscience. The main fields in which it is suggested the Town Clerk should concern himself with planning are the following:-

- 34.1. preparing the budget by which is meant not accounting work but resource allocation, with alternatives, aimed at achieving accepted and needed goals, and in which is incorporated the cost of any new plans or programmes for the future;
- 34.2. personnel administration in relation to manpower management and recruiting policy, so as to ensure that personnel recruitment, allocation and use are such that accepted goals and needs can be effectively met;
- 34.3. forward planning, with a view to creating a long-term picture for the future on which to base more detailed planning also in the future but subject to review as circumstances change. This involves three depths of planning, namely, short-term planning for say three years ahead, medium-term planning for three to five years ahead, and long-term planning for periods exceeding five years ahead. As councillors, because
of/...

of their uncertainty of tenure and possible inability to think in these terms, are unlikely to initiate forward planning, it must be initiated by the Town Clerk;

- 34.4. information gathering in the sense that full information is required of community needs and feelings. This can be achieved by surveys and the other methods of testing public opinion as suggested in Chapter Four under the heading Politics, Citizen Participation and Bureaucracy. The Town Clerk must ensure that information gathered, whether gathered prior to planning or as feed-back, is analysed and considered so as to modify plans and programmes where necessary;
- 34.5. internal organisational review and adjustment to ensure that the municipal machine operates as effectively as possible and is capable of achieving targeted goals.

NOTES

¹Samuel Humes and Eileen M. Martin, The Structure of Local Governments Throughout the World, 1961, opposite p. 310.

²Samuel Humes and Eileen M. Martin, The Structure of Local Government : A Comparative Survey of 81 Countries, 1969, p. 531.

³Humes and Martin, 1969, op. cit., p. 531.

⁴Humes and Martin, 1969, ibid.

⁵Humes and Martin 1969, op. cit., pp. 532 and 534.

⁶Humes and Martin, 1961, op. cit., opposite p. 276.

⁷T. B. Floyd, Better Local Government for South Africa, p. 34.

⁸Humes/...

- ⁸Humes and Martin, 1961, op. cit., p. 276.
- ⁹Humes and Martin, 1969, op. cit., p. 576
- ¹⁰Floyd, op. cit., p. 34.
- ¹¹Humes and Martin, 1969, op. cit., pp. 576
and 577.
- ¹²Humes and Martin, 1969, op. cit., p. 577.
- ¹³Humes and Martin, 1969, op. cit., pp. 577-578.
- ¹⁴Humes and Martin, 1969, op. cit., p. 542.
- ¹⁵Humes and Martin, 1969, op. cit., p. 542.
- ¹⁶Humes and Martin, 1969, op. cit., pp. 542-543.
- ¹⁷Humes and Martin, 1969, op. cit., pp. 543-544.
- ¹⁸Humes and Martin, 1969, op. cit., p. 544.
- ¹⁹Humes and Martin, 1969, op. cit., p. 544.
- ²⁰Arthur W. Bromage, Introduction to Municipal
Government and Administration, p. 16 ff.
- ²¹Humes and Martin, 1969, op. cit., p. 357.
- ²²Bromage, op. cit., pp. 107, 108 and 19.
- ²³Humes and Martin, 1969, op. cit., pp. 357-360.
- ²⁴Peter G. Richards, The Reformed Local Government
p. 37.
- ²⁵Humes and Martin, 1969, op. cit., pp. 626-627.
- ²⁶Richards, op. cit., pp. 37-39.
- ²⁷Richards, op. cit., p. 62.
- ²⁸Richards, op. cit., pp. 65-66.
- ²⁹Richards, op. cit., pp. 66-67, 70-71, 75-76
and 131.
- ³⁰Humes and Martin 1969, op. cit., pp. 622 and
624.
- ³¹Her Majesty's Stationery Office, 1967.

³²Her Majesty's Stationery Office, 1967, paragraph 490.

³³Herman Finer, English Local Government, pp. 261-263.

³⁴Paragraphs 179-180 of the Report.

³⁵Paragraphs 3.3-3.6, 4.4, 4.14, 5.9, 5.13, 5.17, 5.27, 5.38 and 5.42 of the Report.

³⁶Report of the Study Group on Local Authority Management (The Bains Report); Chapter 5 and Appendix J. p. 165.

³⁷Samuel Humes and Eileen M. Martin, The Structure of Local Government : A Comparative Study of 81 Countries, pp. 125-126.

³⁸Dilys M. Hill, Democratic Theory and Local Government, p. 93.

³⁹John Stewart, in Municipal and Public Services Journal, February, 1976, p. 148.

⁴⁰Maurice Spiers, Techniques and Public Administration, p. 155

⁴¹Spiers, op. cit. pp. 156-158.

⁴²Self, op. cit., pp. 33 and 157.

⁴³Poul Meyer, Systemic Aspects of Public Administration, pp. 116-117 and 120.

CHAPTER SEVEN

SUMMARY AND CONCLUSIONS

ORIGINS, GROWTH AND DEVELOPMENT

1. South African Municipal government derives from Dutch, English and South African sources. The evolutionary thread started with local communities attempting to determine their destinies, to an indirect form of local self-government and the employment of staff.
2. The committee system was first introduced into Natal during the Nineteenth Century and became so firmly entrenched that its continued existence is sometimes equated with the continuance of democracy at local level. However, there has been a questioning of this system because it brings about fragmentation and lack of co-ordination. In the Transvaal and the Orange Free State the committee system has been replaced with the management committee/chief executive system and this system is more rational. In the United Kingdom, where party political control is more overt, the reforms have been aimed at rationalising structure and setting up a system which prevents councillor interference in daily administration because of their lack of training in administration and their short tenure of office. In South African and British enquiries much stress has been laid on making local government more effective. The Slater and Marais Commissions/...

Commissions demonstrated a need for an overall co-ordinator and manager as the link between the executive group of councillors and the rest of the municipal service, the recommended solution being the division of executive functions between a small group of councillors on the one hand, and one senior official on the other. By implication, this would result in the Town Clerk becoming the policy advisor to the executive group of councillors.

LEGISLATION AND THE NATURE OF MUNICIPAL ADMINISTRATION

3. The questionnaire shows that while legislation deals quite comprehensively with formal acts, salary control and the like, not much is expressed in these enactments about the nature of municipal administration and some leeway is available. Councils in places where fragmentation is the norm often fill in this gap with formal documents usually referred to as standing orders which give operational guide-lines to the Town Clerk and other officials, and in some cases this leaves the Town Clerk with very little scope for initiative. It also appears that South African local government labour relations are in a transitional phase of transfer from the Central to the Provincial governments. Because local government is such an important part of the country's government this is a trend which should be resisted in favour of a more definite and comprehensive national policy. The present picture is confused.

TOWN CLERKS' SALARIES

4. This aspect also presents a picture of confusion for, while the general policy is aimed at Town Clerks being paid more than other officials, several instances have been revealed where this does not happen. If the
Town/...

Town Clerk is to be chief administrative and executive officer, that is, the leader of the municipal service, it is completely wrong that those subordinate to him should earn more than he does. Government control is a reality and could be beneficial if applied with the correct motives. One of the inferences that could be drawn from the present policy is that there is a motive to keep municipal salary costs down to levels which the local community can afford. This view, if true, may have some force, but from another way of viewing the Town Clerk's salary, namely, that he does a professional job and, just as the remuneration of other professions, such as medical practitioner and attorneys, are fixed in terms of national policy, so should the salaries of Town Clerks. The professions mentioned do not have their salaries fixed according to what the user can afford to pay but according to what a person in that profession ought to earn.

5. The notion suggested in paragraph four supra will, however, be strongly resisted for it would be unrealistic, either to make all Town Clerks earn at the level which would be paid to big city Town Clerks, or the reverse. Furthermore, country towns may have more problems attracting suitable Town Clerks than bigger towns, or cities, and a stimulus would have to be provided. One answer to the problem would be to make all municipal employees into State employees, but there is an alternative, namely, for the Government to institute a uniform national policy for Town Clerks which is fair and reasonable to both employer and employee. This could be achieved by classifying all municipalities into a number of categories, using population, area, financial ability, socio-economic problems, stage of development and any other factors that may occur, as the basis for the classification. Once the categories had been determined salaries could be worked out for each category based, not on what the Provincial Secretary or any other civil servant earns, but
on/...

on a just remuneration for the job itself. If such a system were to be adopted, it would assist recruitment because transfer from one category to another would amount to promotion on merit, and remove the present arbitrary factor from salary calculation. The Provincial Administrations could become the Government's watchdog to see that national policy is not avoided or frustrated.

THE SELECTION OF TOWN CLERKS

6. The selection of Town Clerks is done by councillors who have no training in selection techniques although there may be exceptions, and who because of their relatively short period of office do not always suffer the consequences of a wrong choice. In the Transvaal applications are sifted by the Provincial Administration. Two Town Clerks made useful suggestions. The first was the formation of an advice bureau on the appointment of Town Clerks and the other was the institution of more objective selection techniques--see paragraphs 53 and 63 of Chapter Three. Since most municipalities in the sample appear to favour an open career system in the sense of testing the outside market when the Town Clerk's position becomes vacant, these suggestions merit attention by the legislators and by the municipalities themselves. It is wasteful to expect each municipality to undertake research into selection techniques but in each Province there is a municipal association, to which most municipalities belong, and which have their own secretariat. In other words, there is already a nucleus upon which such a venture could be built, without any need for legislation. It is nevertheless also necessary for the Provincial Administrations to concern themselves in the matter, because they control local government under the Constitution, and should be interested in better local government. In the Cape, the Provincial Administration and/...

and the Cape Town City Council have together successfully brought into being a training school for traffic officers so that the principle would not be new.

7. Informal selection methods cannot be accurately examined since not enough hard fact was given. It would nonetheless be reasonable to infer that each municipality uses some form or another of informal selection method even if only to check past performance with previous employers. The question whether the Provincial Administration should have any say in the selection or appointment of Town Clerks elicited very positive views. Two-thirds of all replies, included in which were one-half of the Transvaal replies, were opposed to any Provincial Administration involvement in this issue. Many replies laid considerable stress on a fear of dual loyalties and on an attachment to local autonomy, while other replies took the view that Provincial involvement would protect the broader interests of the community against weak or unwise choices by lay-administrators. There are two main approaches to the problem, the first being an individualistic view based on a strong local autonomy, and the second, a view that effective local government is a national interest which should be supported and strengthened by the Central Government and Provincial Administrations to the greatest possible extent. The comments in paragraph six supra follow the general direction of this second view and other factors such as qualification and rates of pay would also fall within this view. The question of heads of departments having any say in the selection of Town Clerks was rejected by virtually all those who replied, on two main bases: 1. they are subordinate to the Town Clerk and subordinates should not choose their leader; and 2. it would undermine discipline and could lead to weak choices. There were two contrary views, one being that as senior officials have to work with Town Clerks their informal views might carry some/...

some weight, and the other, that opinions could be advanced by senior officials. It is agreed that appointing authority should not be given to senior officials but, if the team approach is to grow in importance, a case exists for the members of the team at least being allowed to make informed recommendations as to who could best be their leader.

THE PROTECTION OF TOWN CLERKS

8. Because of policy changes at Central Government and Provincial level Town Clerks are no longer protected in terms of the Industrial Conciliation Act, 28 of 1956, as are other municipal employees, and, while the Provincial legislation gives a form of protection, it is not the same as the protection given under the Act. As the case study in Chapter Five shows, the Provincial protection is not consistent or uniformly effective. The attempt to protect councils from bad, incompetent or negligent Town Clerks has had the effect of weighting justice in favour of the employer. The reasons advanced by the Central Government are not convincing and it would be a reasonable inference that other motives exist but which have not been expressed. As propounded in earlier portions of this Chapter there is a case for national control perhaps of greater depth but aimed at fairness to Town Clerks and a broad consideration of effective local government in the interests of all citizens. An obvious counter-argument, namely, that an ill-paid, poorly motivated staff which operates at low cost, is more in the interests of citizens, is not true in fact or in practice. An alternative open to Town Clerks would be to form their own trade union for in such an event the Government would be compelled to deal with a union despite the present wording of the legislation.

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THE EFFECTIVENESS OF SYSTEMS

9. Another conclusion which can be drawn is that the Transvaal and Orange Free State management committee systems, with a strong Town Clerk, are more efficient and more effective than the systems followed in the Cape and Natal where fragmentation is still the rule. Local Government in South Africa, following its emergence from the changes of the Nineteenth Century, still seems to be in a state of evolution. It is unlikely that the present dichotomy will continue indefinitely and that, as the tasks and problems of local government grow in number and complexity, a more rational system aimed at executive leadership and control, co-ordination, quicker decision-making and improved planning, will emerge. It is always difficult to forecast what will happen in the future but the majority views of the sample indicate a desire for administrative co-ordination and corporate effort at the level of the officials. Town Clerks working under the management committee system give evidence of more effectiveness in policy planning than Town Clerks working under the multiple committee system; many of the latter see themselves as having a review and not a positive, or initiating function. It is difficult to see how a Town Clerk, as a head of a department consisting of some or all of the diverse services listed in Appendix Nine, can devote sufficient time to his wider functions. However, if the Town Clerk had control of certain functions, such as personnel and budgeting to name two, a different situation would emerge.

THE INSTITUTE OF TOWN CLERKS

10. The Institute of Town Clerks, as has been shown, is essentially a professional body for Town Clerks, aimed at promoting and improving their technical knowledge and the training of prospective Town Clerks.

It/...

It is not an organisation for the promotion and improvement of public administration as such. Nevertheless, by improving the training and knowledge of Town Clerks in the field of public administration the Institute can make a valuable contribution since the excellence of Town Clerks in administration will not only result in their knowledge being passed on, but may also spur on other municipal employees to acquire a better knowledge of administration. The suggestion already commented on, that the Institute should start a bureau for providing advice on the appointment of Town Clerks would, if adopted, be a practical step towards resolving problems of selecting Town Clerks for appointment. The Institute, by encouraging studies in conjunction with Universities into matters such as uniform standards of administration and structure for municipalities, could play a valuable and influential role in the solving of modern problems of local government.

POSSIBLE IMPROVEMENTS BASED ON OVERSEAS PRACTICES

11. Local government in the countries briefly studied in Chapter Six has certain common characteristics but the way in which functions are allocated and controlled and the rationality with which local government fits in with higher tiers of government varies in the countries concerned. In France, West Germany and Holland for example, the constitutional position of local government is made clear, whereas in South Africa it is a matter on which Provincial councils may legislate--see section 84(1) of Act 32 of 1961. The continental systems, and particularly the Dutch system, are attractive because municipalities have similar powers and legal status, and are actively supported by higher tiers of government. Of the four West German systems, the Council-Mayor-Director system highlights the need for administrative and political control, while the Council-Board system indicates a quicker decision-making by a small executive body.

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There is, however, a danger in simply transplanting local government systems from one country to another, without reference to history and constitutional differences. Subject to this warning, if any tentative conclusions could be drawn on improvements for South Africa from these countries, the following are suggested:-

- 11.1. a structuring of local government in terms of specific national legislation based on a form of suffrage which gives all citizens a say in the administration of their affairs, according to their contribution to the area but with one basic vote for each inhabitant, and a sufficient period of office to enable councillors to fulfil policies for which they are elected;
- 11.2. a requirement that there be a small executive body of councillors such as the Dutch wethouder, for rapid decision-making and to recommend major policies and plans to the council; and
- 11.3. an executive head of the municipal service to work closely with the executive body and to be the leader of the council's senior officials in order to draft policies and plans required by the executive body, and to initiate them as well.

12. The American approach is not as firmly structured as the Continental, while the British have recently adopted a new and much firmer structuring of local government. American forms of local government reflect American political trends and thinking both past and present. British forms of local government as they are now provide for a two-tier local government system, with a considerable amount of central government control. Nevertheless, periods of office for councillors and electoral systems vary in places. The attraction of the British system is particularly/...

particularly strong in relation to heavily developed areas, such as the Reef in the Transvaal and Greater Cape Town in the Cape, where numbers of local authorities exist in complete independence, competing with each other in fields such as housing, the attraction of investment or tourism, and each with its own infrastructure. The American Council-Manager form is a good model because it separates governing and administrative values in such a way as to lend full strength to the latter; it should be noted, however, that the mayor is tending to develop into a strong political leader where this form is used in larger cities. Tentative conclusions which could be drawn for South Africa from these two countries are:-

- 12.1. the time is approaching in the more developed areas of South Africa when attention will have to be given to the problems of metropolitan municipal government and the British conurbations which are two-tier, would be a good model upon which to base South African changes; and
- 12.2. the American Council-Manager system would be a good basis (author's underlining) upon which to found any new concept of the Town Clerk. This view is subject to 11.3 supra, nor is the wholesale adoption of the system being advocated. The supervisory and general co-ordinative duties of the City Manager do, however, lead to stronger and more effective administration.

DEMOCRACY AND LOCAL AUTONOMY

13. It is vain to hope for a pure form of local autonomy. As the problems of countries grow in size and complexity there is an increasing trend for governments to centralise and co-ordinate policy and resources. As local government has a tremendous spending power the Government is/...

is unlikely to surrender its control. Democracy at local level is not as such tied to local autonomy. When the term democracy is used at local level, what is sometimes meant is that citizens should have rights of appeal against administrative decisions, to submit requests to those who govern them and to be treated equally by councillors and officials. Another meaning of democracy at local level is participation in the government of the town, either by obtaining employment or by being able to vote at elections or polls.

THE TOWN CLERK AS LEADER

14. The replies received to the questionnaire indicated that a fair number of Town Clerks favoured a chief executive approach to local government, and that most of them preferred a corporate approach to the exercise of their functions. Arising from what is said in paragraphs 11.3 and 12.2 supra, and the theories examined in Chapter Four under the heading Leadership and Organisation, the following propositions are made:-

- 14.1. the Town Clerk works in a hierarchical bureaucracy which cannot be changed if specialisation is needed and within which goals are required aimed at meeting social needs, and meeting the interests of its clients;
- 14.2. under-performance may be due to managerial and leadership defects but stressing one more than the other results in weaknesses;
- 14.3. a leader must have some political independence;
- 14.4. leadership is not authoritarianism but the ability both to motivate chief officers to work in a corporate environment and to be able to bend people to his will if this becomes necessary;
- 14.5. the closed model of organisation suits a
bureaucracy/...

bureaucracy but the open model is more suited to the creative needs of a leader and his team. Therefore while lower and middle levels need the closed model, the leader and his team could, in the same organisation retain nearly all the characteristics of the open model, and this would greatly help them;

- 14.6. decision-making at the top level must exclude routine matters and points of detail which can be filled in by others;
 - 14.7. prescribing particular organisational forms for Town Clerks does not help them solve their problems but if they possess a knowledge of organisation such prescriptions would not be needed;
 - 14.8. organisation is related to purpose, social needs and the response of society to the organisation, the making of decisions and the linking of functions;
 - 14.9. authority, in the context of a Town Clerk's professional life, means more than imposing his will on others which, if carried to excess results in disobedience; authority also means influencing others to work as a team to common goals;
 - 14.10. the leader must have a social conscience and a code of ethics but without being emotionally over-charged if he is to be responsive to the society he lives in.
15. Finally, in two senses the Town Clerk must act alone, namely:-
- 15.1. in monitoring the performance of his chief officials so as to avoid waste due to inefficiency, bad methods or mis-directed effort, involving the exercise of authority; and

15.2. supporting/...

- 15.2. supporting and defending corporate recommendations at councillor level, particularly where the opinions of the chief officials are divided, by impressing on councillors the need to consider the consequences of hasty decisions which have not been considered in relation to community needs and available resources.

THE TOWN CLERK AND A CODE OF ETHICS

16. Town Clerks, as do other administrators, require a code of ethics and the questionnaire answers reveal that this is the case. It is frustrating for the official to find out that his council, as so often happens, ignores the fact of his ethics. At its most basic, this could mean ordering an official to do something the councillors would not personally undertake, or at the other end of the spectrum, adopting selfish policies which ignore the public interest. There is also the frustration which officials sometimes have to endure, of working with councillors who are almost certainly corrupt, but who cannot be convicted because of a lack of evidence.

THE QUALIFICATIONS OF TOWN CLERKS

17. Qualifications is a wide word meaning both personal attributes and academic qualifications. The personal attributes have been considered in relation to the questions of leadership and ethics. The questionnaire replies revealed that many local authorities leaned towards legal qualifications, and, to a lesser extent, accounting qualifications. The crisp point is, should all Town Clerks have one universal qualification such as a bachelor's degree in administration, which is not necessarily desirable. Insistence on academic qualifications on a national basis could result in smaller towns not being able to meet the market value price of graduate staff, and experiencing recruitment/...

recruitment difficulties as a result.

18. Nevertheless, it must also be said that most local authorities have an imperative for competent staff and competence is partly but not wholly ensured by academic training. The man who after three to five years of study obtains a degree has proved that he is capable of some form of achievement and this factor cannot be ignored. Professionals such as medical officers, engineers, or accountants must have the appropriate qualifications and this is how the vast majority of chief officials start their careers. As a result, a mixture of different disciplines rise to the top, and in theory, a lawyer, an engineer and a medical practitioner could all apply for the post of Town Clerk. In making the selection, there is no point in deciding which of these disciplines is the most suitable for the post since the answer must obviously be negative. The Town Clerk is an administrator and the only relevant point is his qualities and qualifications as an administrator.

19. Within South African municipalities two schools of thought are often encountered, the first of which maintains that an administrative or other degree is a decisive point in favour of an applicant, while the second maintains that experience as a practical administrator is all-important. Both are wrong. Experience can be of two kinds, the first being growth and development as the person learns wisdom and ability through his work, and the second being the person who goes on making the same mistakes and never learns. In other words, a degree as such, while it measures academic achievement, cannot of itself be a measure of success in practice. But the problems of local communities are to-day far more complex than even thirty years ago, with social, financial and governmental pressure. On top of this, administration, both as a science and a practical operation, has grown in complexity and/...

and sophistication.

20. It is suggested that the criteria for Town Clerks should be two-fold, the first relating to his human qualities, and the second to his knowledge of administration, which might be academic in origin or which might have been obtained by other means such as by private study or by obtaining a diploma. As a side-line on the issue of qualifications, if one or more universities were to offer special refresher courses in administration they would be providing a valuable, if not essential, service to government in this country. The employer, whether central, provincial or local government, would have to support such a scheme financially in order to make it possible for the universities and the students.

THE TOWN CLERK'S DEPARTMENT

21. It was argued in paragraph nine supra that Town Clerks should not be given the added responsibility of a conventional department but with a qualification related to the control of certain functions. It is doubtful whether Town Clerks can operate in complete isolation since they need to know how the organisation is functioning, and if malfunctioning does occur, they need some means of rectifying it. Furthermore, they cannot act as leader if they are forced to exist in complete isolation, e.g. in testing public opinion. To achieve these ends the Town Clerk should, without becoming responsible for their daily administration, control the functions of organisation and methods, the personnel division, information, corporate team-work, budgeting and forward planning. The fear sometimes expressed that the Town Clerk will become a "bottle-neck" will not occur if he adopts a policy of delegation and confines his personal attention to the tasks which only he should handle.

POLITICS/...

POLITICS AND CITIZEN PARTICIPATION

22. Given the bureaucratic nature of local government is there anything the Town Clerk could or should do about it? The answer, it is submitted, is that the Town Clerk should promote responsiveness to public needs within his organisation both by obtaining information from the public and by giving information to the public; he should also combat internal inertia and self-satisfaction. The Town Clerk can also work to make his bureaucracy as representative of the community as possible.

23. The Town Clerk must accept both political leadership and political control from his council. The brief review of foreign countries in Chapter Six shows that political leadership and administrative leadership are invariably separated in some way and this is very wise as it avoids confusion of roles and allows the administrator more latitude, as an administrator, than he would have as a politician. The reason for this separation is that politicians and administrators differ in outlook and goals. There is also the possibility that an adverse reaction might result between a political administrator and other officials based on a conflict of roles and goals. Politicians can be recognised by the differences of view-point they hold in relation to administrators and are the ultimate controllers of administrators. The professional problems of officials in relation to politicians will occur but the controls suggested by Self can help to reduce this conflict--see Chapter Six under the heading The Town Clerk as a Planner in regard to alternative plans, planning in stages and obtaining the opinions of outside experts on internal plans.

24. Citizen representation cannot be achieved within an organisation, by means of organisational roles. Citizens tend to distrust a bureaucracy, particularly the
discretionary/...

discretionary powers of officials. Citizen representation or participation can therefore be perceived as a democratic need but the dilemma is, how to achieve it? The most feasible method, it is suggested, is to ascertain public wishes, by testing public opinion by polls and the like, social surveys of popular needs and cost-benefit analyses. In essence, therefore, the imperative for citizen representation or participation requires Town Clerks, as the link between the political and administrative elements, to initiate moves to obtain public opinion and to identify long-term needs and changes in those needs, since the elected representative has a relatively short term of office and may not be able or inclined to act for long-term needs.

THE TOWN CLERK AS A PLANNER

25. That the Town Clerk has a role to plan is without dispute, as argued in Chapter Six under the heading The Town Clerk as a Planner. The main reason for this is the need to centralise planning and to broaden it in order to achieve common goals in response to societal needs. The areas where it was suggested the Town Clerk should particularly concern himself with planning were budgeting, personnel administration, forward planning, information gathering and internal organisational review and adjustment. These functions link up with the views expressed in paragraph twenty-one supra.

THE POLICY-ADMINISTRATION DICHOTOMY

26. The discussion under the appropriate heading in Chapter Two reveals that this dichotomy is fast becoming irrelevant and should be encouraged to fade out completely.

THE/...

THE SPECIALIST-GENERALIST DICHOTOMY

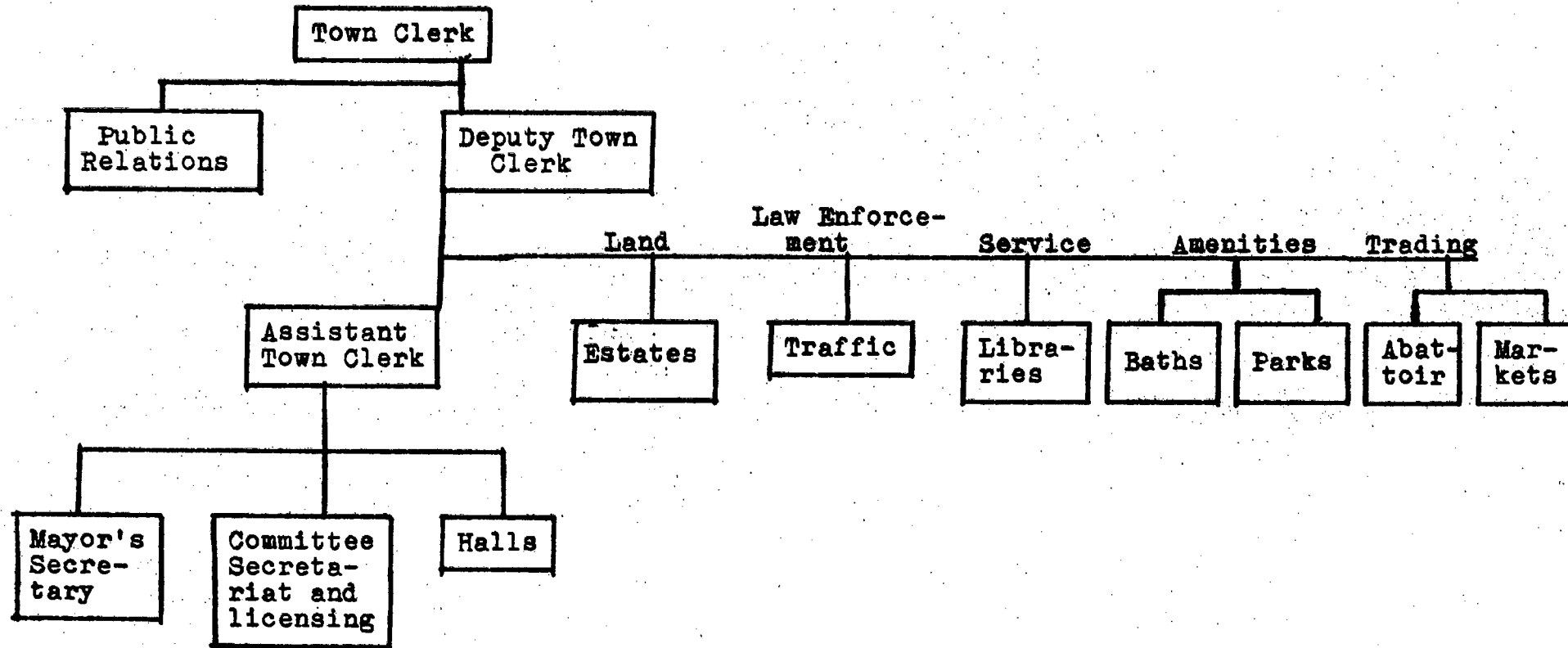
27. The discussion in Chapter Two, when linked with the comments supra under the heading The Qualifications of Town Clerks reveals that the distinction is rather outmoded in the sense that knowledge of administration matters more than the basic discipline of the person. There are, however, reasons for still insisting that the Town Clerk should be a generalist, these reasons being related to recently enunciated views by leading municipal engineers which indicate a trend towards specialist control.

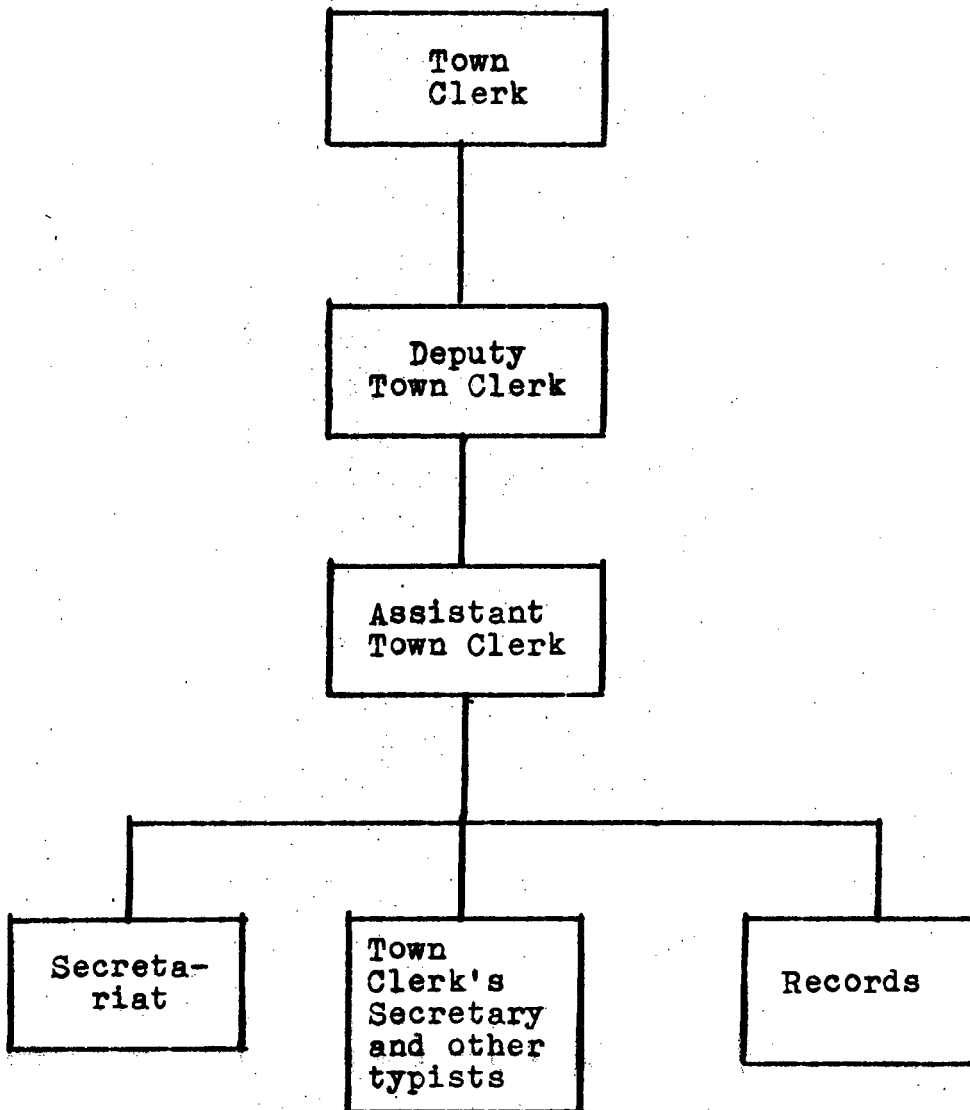
FINAL SUMMARY

28. To sum up the theme of this thesis, it is an attempt to create an outline for a Town Clerk who as an administrator has strong creative drives towards shaping the municipal machine at all levels, into an effective community and goal-orientated bureaucracy responding to the needs of the society in which it exists and which it serves.

APPENDIX ONE

THE STRUCTURE OF THE EAST LONDON TOWN CLERK'S DEPARTMENT



APPENDIX TWOTHE STRUCTURE OF THE LADYSMITH TOWN CLERK'S DEPARTMENT

APPENDIX ELEVENTHE REFORMED STRUCTURE OF LOCAL GOVERNMENT IN
THE UNITED KINGDOMCONURBATIONSMIXED URBAN AND RURAL
AREASEnglish Provinces

Metropolitan Counties

Counties

Metropolitan Districts
of Boroughs

Districts or Boroughs

Parishes or Towns
(in some places)Parishes or Towns
(except in larger urban
areas)LondonWales

Greater London Council

Counties

London Boroughs

Districts or Boroughs

Communities or Towns
(except in larger urban
areas)

BIBLIOGRAPHYLEGISLATIONActs

The Republic of South Africa Constitution Act, 32 of 1961.

The Industrial Conciliation Act, 28 of 1956.

Ordinances

The Municipal Ordinance, 20 of 1974 [Cape].

The Municipality of Cape Town Administration Ordinance, 24 of 1965 Cape .

The Municipal Ordinance, 25 of 1974 [Natal].

The Local Government Ordinance, 8 of 1962, [Orange Free State].

The Local Government Further Amendment Ordinance of 1966 [Orange Free State].

The Elections Ordinance of 1927 [Transvaal].

The Local Government (Administration and Elections) Ordinance, 4 of 1960 [Transvaal].

OFFICIAL PUBLICATIONSThe United Kingdom

Report of the Committee on the Staffing of Local Government, Her Majesty's Stationery Office, London, 1967.

Report of the Committee on the Management of Local Government, Her Majesty's Stationery Office, (Vol. 1), London, 1967.

Report of the Study Group on Local Authority Management Structures (The Bains Report), Her Majesty's Stationery Office, London, 1972.

South/...

South Africa

Second Interim Report of the Commission of Enquiry into the System of Local Government in the Transvaal on the Structure of the System in the Province, 16th May, 1955.

Third and Final Report of the Commission of Enquiry into the System of Local Government in the Transvaal. (T.P.5/1957, 14th February, 1957.

Report of the Commission of Enquiry into the System of Local Government which applies to the City of Cape Town, 10th November, 1964.

Report on the Management Committee System in the Transvaal. The Local Government Association of Southern Rhodesia, 1964.

Verslag van die Kommissie van Onderzoek insake die Plaaslike Bestuurstelsel in die Oranje-Vrystaat, April, 1966.

Report of the Committee of Enquiry into the System of Management Committees for Local Authorities in Natal, September, 1968.

MUNICIPAL DOCUMENTS

Memorandum : The City Council's Comments on the Report of the Commission of Enquiry into the System of Local Government which applies to the City of Cape Town, February, 1965.

The Standing Orders of the Council including Terms of Reference and Orders of Delegation to Committees and to Officials, Cape Town, 1969.

Pretoria Municipality : Standing Orders, Administrator's Notice 1224 of 14th October, 1970.

Report of the Management Consultants to the Salisbury City Council.

Standard Standing Orders: Transvaal, Administrator's Notice 1049 of 16th October, 1968.

Standing Rules and Orders of Meetings of the Eshowe Town Council, Provincial Notice 571 of 30th October, 1958.

Delegasie/...

Delegasie van Bevoegdhede aan die Stadsklerk en Departementshoorde, Dorpsbestuur Virginia, ongedateerd.

The Municipal Year Book, 1975.

OFFICIAL DOCUMENTS OF THE INSTITUTE
OF TOWN CLERKS

Memorandum of Association.

Articles of Association.

By-Laws.

Rules of Conduct for the Local Government Official.

OFFICIAL DOCUMENTS SUPPLIED BY THE SOUTH
AFRICAN ASSOCIATION OF MUNICIPAL EMPLOYEES
(NON-POLITICAL)

Memorandum on Certain Provisions of the Industrial Conciliation Bill, 24th December, 1954.

Memorandum in verband met die wyse van bepaling van die Salarisse van Stadsklerke, 4th February, 1971.

Memorandum to the Minister of Labour (undated).

Memorandum re Town Clerks (undated).

Copy of a Circular from the Provincial Secretary to all Town Clerks in Natal, (undated).

Copies of letters to the Secretary for Labour dated 13th February, 1968, 23rd April, 1971, 23rd July, 1971, 9th August, 1971, 24th August, 1971, 22nd November, 1971, 16th October, 1972, 27th November, 1972, 13th April, 1973, 10th July, 1973, 17th September, 1973, 25th September, 1973, 24th September, 1974, 23rd October, 1974 and 23rd June, 1975.

Copies of letters from the Minister of Labour and the Secretary for Labour, dated 30th August, 1971, 15th September, 1971, 10th December, 1971, 19th May, 1972, 18th December, 1972, 2nd May, 1973 and 3rd July, 1975.

Copy of a letter dated 2nd August, 1975, from the Private Secretary to the Minister of Labour, to the Secretary of the Institute of Town Clerks.

CONFERENCE/...

CONFERENCE PAPERS AND PROCEEDINGS

The Report of the Proceedings of the First Annual General Meeting and Conference of the Institute of Town Clerks of Southern Africa, East London, 7th to 10th June, 1948.

The Report of the Proceedings of the Twenty-Ninth Annual General Meeting of the Institute of Town Clerks of Southern Africa, Kimberley, June, 1976.

Evans, Stanley, "Aspects of Management in Local Government" Twenty-Fourth Conference of the Institute of Town Clerks of Southern Africa, Durban, 14th to 16th June, 1977.

Lewis, P.R.B., "Review of the Local Government Administration in the Transvaal with particular reference to the Management Committee System", Thirty-Second Annual Conference of the Local Government Association of Rhodesia, 14th May, 1973.

Peters, F.W. "The divergent ways in which Town Clerks function (despite uniform legislation) indicates a need for standardising personnel organisational structures and policy in order to achieve uniformity", Twenty-First Conference of the Institute of Town Clerks of Southern Africa, Pietermaritzburg, June, 1971.

Prinsloo, N., "The Training and Qualifications of the Administrator in South African Local Government", Proceedings of the Institute of Town Clerks of Southern Africa, June, 1948.

Cape Province Municipal Association, Symposia for Municipal Councillors, a collection of extracts from various publications in conjunction with S.A.I.P.A., September, 1967.

Cape Province Municipal Association, Symposia for Municipal Councillors, a collection of papers read and done in conjunction with S.A.I.P.A., October and December, 1967 and January, 1968.

LETTERS AND COMPLETED QUESTIONNAIRES.

The Town Clerks of:-

Amanzimtoti
Beaufort West
Bethlehem
Bloemfontein
Boksburg
Carnarvon
East London
Eshowe

Estcourt/...

Estcourt
 Heidelberg
 Johannesburg
 Kimberley
 Ladysmith, Natal
 Lichtenburg
 Nigel
 Odendaalsrus
 Paarl
 Parow
 Pietermaritzburg
 Port Elizabeth
 Pretoria
 Simon's Town
 Virginia.

The Honorary Secretary of the Institute of Town Clerks of Southern Africa, dated 31st August, 1976.

The General Secretary of the South African Association of Municipal Employees (Non-Political), dated 1st March, 1977.

BOOKS

Albrow, Martin, Bureaucracy, London : Pall Mall Press, 1970.

Alford, Robert R., in collaboration with Scoble, Harry M., Bureaucracy and Participation, Chicago : Rand McNally and Company, 1969.

Appleby, Paul H., Policy and Administration, Fourth Printing, Alabama : University of Alabama Press, 1965.

Baker, R.S.J., Administrative Theory and Public Administration, London : Hutchinson University Library, 1972.

Ball, Alan R., Modern Politics and Government, London : The MacMillan Press Limited, 1971.

Blau, Peter M., The Dynamics of Bureaucracy, Second ed., Chicago : University of Chicago Press, 1967.

British Information Services, Local Government in Britain, London : Central Office of Information, 1975.

Bromage, W., Introduction to Municipal Government and Administration, Second edition, New York : Appleton-Century-Crofts, 1957.

Burke/...

Burke, Roger and Wellbeloved, James, Local Government : A Guide to its basic functions, London : Charles Knight and Co., Ltd., 1976.

Clarke, John J., The Local Government of the United Kingdom, Fourteenth edition, London : Sir Isaac Pitman and Sons Limited, 1948.

Cloete, J.J.N., Munisipale Regering en Administrasie in Suid Afrika, Pretoria : J.L. van Schaik Beperk, 1971.

Cloete, J.J.N., Inleiding tot die Publieke Administrasie, 2 e. hers., uitgawe, Pretoria : J.L. van Schaik, 1976.

Cloete, J.J.N., Sentrale Provinsiale en Munisipale Instellings van Suid-Afrika, 5 e. hers. uitgawe, Pretoria: J.L. van Schaik Beperk, 1977.

Cloete, J.J.N., Personeeladministrasie, Pretoria : J.L. van Schaik Beperk, 1975.

Dearlove, John, The Politics of Policy in Local Government, London : Cambridge University Press, 1973.

Dimock, M.E. and Dimock, G.O., Public Administration, Third edition, New York : Rinehart and Winston Incorporated, 1964.

Dunsire, Andrew, Administration : The Word and the Science, London : Martin Robertson and Company Limited, 1973.

Eddison, Tony, Local Government Management and Corporate Planning, Buckinghamshire : Leonard Hill Books, 1973.

Evans, Stanley, New Management Committees in Local Government, Wynberg, Cape : Juta and Company Limited, 1969.

Finer, Herman, English Local Government, London : Methuen and Company Limited, 1933.

Floyd, T.B., Better Local Government for South Africa, Pietermaritzburg : Shuter and Shooter, 1952.

Garrett, John, The Management of Government, Middlesex : Penguin Books Limited, 1972.

Green, L.P., History of Local Government in South Africa, Wynberg, Cape : Juta and Company Limited, 1957.

Headrick, T.E., The Town Clerk in English Local Government, London : George Allen and Unwin Limited, 1962.

Henry, Nicholas, Public Administration and Public Affairs, New Jersey : Prentice-Hall, 1975.

Herzberg, F., Work and the Nature of Man, London : Crosby Lockwood Staples, 1974.

Hill, Dilys M., Democratic Theory and Local Government, London : George Allen and Unwin Limited, 1974.

Holmes, I.Q., Local Government Finance in South Africa, second rev. ed., by J.W. Cowden, Durban : Butterworth, 1949.

Honikman, A.H., Cape Town : City of Good Hope, Cape Town: Howard B. Timmins, 1966.

Humes, Samuel and Martin, Eileen, The Structure of Local Governments Throughout the World, The Hague : Martinus Nijhoff, 1961.

Humes, Samuel and Martin, Eileen, The Structure of Local Government : A Comparative Survey of 81 Countries, The Hague : De Zuid-Hollandsche Boek- en Handelsdrukkery, 1969.

Institute of Local Government Studies, University of Birmingham, Recent Reforms in the Management Structure of Local Authorities - the London Boroughs, March, 1969

Jewell, R.E.C., Local Government Administrative Practice, London : Charles Knight and Co., Ltd., 1975.

Keeling, Desmond, Management in Government, London : George Allen and Unwin Limited, 1972.

Krislov, Samuel, Representative Bureaucracy, New Jersey : Prentice-Hall Incorporated, 1974.

Laski, Harold J., Jennings, W. Ivor and Robson, William A., Editors, A Century of Municipal Progress, Second Impression, London : George Allen and Unwin Limited, 1936.

Maddick, Henry, Democracy, Decentralisation and Development, Bombay : Asia Publishing House, 1966.

Marshall, A.H., Financial Management in Local Government, London : George Allen and Unwin Limited, 1974.

Maslow, Abraham Harold, Motivation and Personality, Second ed., New York : Harper and Row, 1970.

Maud, John P.R., Local Government in Modern England, London : Thornton Butterworth, Limited, 1932.

Maud, John P.R., City Government : The Johannesburg Experiment, Oxford : The Clarendon Press, 1938.

McGregor, Douglas, The Human Side of Enterprise, New York : McGraw-Hill Incorporated, 1960.

Meyer, Poul, Systemic Aspects of Public Administration, Copenhagen : G.E.C. Gad Publishers, 1973.

Nigro, Felix A. and Nigro, Lloyd G., Modern Public Administration, Third ed., New York : Harper and Row, 1973.

Niskanen, William A., Bureaucracy and Representative Government, Chicago : Aldine Publishing Co., 1971.

Parris, Henry, Constitutional Bureaucracy, London : George Allen and Unwin Limited, 1969.

Passett, Barry H., Leadership Development for Public Service, Houston : Gulf Publishing Company, 1971.

Ramsden, Pamela, Top Team Planning, London : Associated Business Programmes Limited, 1973.

Redcliffe-Maud, Lord and Wood, Bruce, English Local Government Reformed, London : Oxford University Press, 1974.

Redford, Emette S., Ideal and Practice in Public Administration, Second Printing, Alabama : University of Alabama 1965.

Redford, Emette S., Democracy in the Administrative State, New York : Oxford University Press, 1969.

Richards, Peter G., The Reformed Local Government, London : George Allen and Unwin Limited, 1973.

Richards, Peter G., The Local Government Act 1972 : Problems of Implementation, London : George Allen and Unwin Limited, 1975.

Ripley, B.J., Administration in Local Authorities, London : Butterworths, 1970.

Ross, John P. and Burkhead, Jesse, Productivity in the Local Government Sector, Lexington : Lexington Books, 1974.

Self, Peter, Administrative Theories and Politics, Third Impression, London : George Allen and Unwin Limited, 1974.

Simon, Herbert A., Administrative Behaviour, Second Edition, New York : The Free Press, 1957.

Simon, Herbert A., The New Science of Management Decision, New York : Harper and Brothers, Publishers, 1960.

Skitt, John, Practical Corporate Planning, Bedfordshire : Leonard Hill Books, 1975.

Speed/...

- Speed, J. Municipal Administration in South Africa, Durban : Natal Municipal Association, 1971.
- Spiers, Maurice, Techniques and Public Administration : A Contextual Evaluation, Glasgow : Fontana/Collins, 1975.
- Stewart, J.D., The responsive local authority, London : Charles Knight and Co., Limited, 1974.
- Stillman, Richard J., The Rise of the City Manager, Albuquerque:University of New Mexico Press, 1974.
- Theal, C. McCall, History of South Africa, Volume I, London : Swan, Sonnenschein and Company Limited, 1897.
- Thornhill, W., ed., The Growth and Reform of English Local Government, London : Weidenfeld and Nicholson, 1971.
- Verloren van Themaat, Staatsreg, Edited by Marinus Wiechers, Durban : Butterworths, 1967.
- Vosloo, W.B., Kotzé, D.A. and Jeppe, W.J.O., Local Government in Southern Africa, Pretoria : Academica, 1974.
- Waldo, Dwight, The Study of Public Administration, New York : Random House, 1955.
- Warren, J.H., The English Local Government System, Third Edition, London : George Allen and Unwin Limited, 1953.
- Weber, Max, Basic Concepts in Sociology, trans. H.P. Secher, London : Peter Owen Limited, 1962.
- Weber, Max, The Theory of Social and Economic Organisation, trans. A.M. Henderson and Talcott Parsons, New York : Oxford University Press, 1966.
- Wheare, K.C., Government by Committee, Oxford : The Clarendon Press, 1955.
- Williams, David, Not in the Public Interest, London : Hutchinson and Co., 1965.

JOURNALS

- Barratt, Charles, "The Town Clerk in British Local Government", Public Administration, Vol. 41, 1963.
- Botes, Jack, "Het die bestuurskomiteestelsel in die Transvaal oor sy doel beantwoord?" SAIPA 2(4), April, 1967.

Botes/...

Botes, P.S., "Die rol van politiek in plaaslike owerhede", Municipal Administration and Engineering, August, 1973.

Botes, P.S. "Die teorie en praktyk van organiseering : 'n Inleidende perspektief", Municipal Administration and Engineering, October, 1973.

Botes, P.S., "Die Bestuurskomiteestelsel", Municipal Administration and Engineering, March, 1974.

Botha, Louis, "Hervorm Plaaslike Bestuur", Municipal Administration and Engineering, June, 1975.

Burger, Alwyn, "The role of the Town Clerk in the overall development of the municipality, " Municipal Administration and Engineering, August, 1974.

Cloete, J.J.N., "Die Stadsklerk as hoofuitvoerende beampte", Municipal Affairs, July to October, 1961.

Cloete, J.J.N., "Funksies van die munisipale raadslid", The South African Treasurer, 47(5), March, 1975.

Cloete, J.J.N., "Voorligting van munisipale raadslede en die opleiding van munisipale amptenare", Municipal Administration and Engineering, May, 1971.

Cloete, J.J.N., "Die funksies van die munisipale raadslid", Municipal Administration and Engineering, April and May, 1975.

Cloete, J.J.N., "Verbintenisse tussen publieke administrasie en ander wetenskappe", SAIPA, 8(2), June, 1973.

Cloete, J.J.N., "Bevordering van die opvoedkundige kwalifikasies van openbare amptenare", Die Staatsamptenaar, 53(8), August, 1973.

Cloete, J.J.N., "The Town Clerk as chief administrative officer", Municipal Administration and Engineering, June, 1970.

Cloete, J.J.N., "Die gebruik en die misbruik van komitees deur munisipale rade", Municipal Administration and Engineering, January, 1973.

Contributed Article, "The Town Clerk and the Principal Officer", Municipal Administration and Engineering, September, 1972.

Dyman, R.M., "Training in the public service, The Public Servant, 50(9), September, 1970.

Evans/...

Evans, S., "Roles, relationships and resolutions - a practical survey of municipal interaction", The South African Treasurer, 47(2), December, 1974.

Faulkner, David, "City government - from services to strategy", Local Government Chronicle, July, 1971.

Fourie, P.C., "Die Stadsklerk as 'n Leier in Gemeenskap-ontwikkeling", Municipal Administration and Engineering, September, 1971.

Fourie, P.C., "Enkele voor- en nadele van die enkelvoudige en meervoudige komiteestelsel van plaaslike bestuur", The South African Treasurer, January, 1965.

Freeman, Roland, "Layfield : Science of the logical, or art of the possible", Municipal Administration and Engineering, December, 1976.

Harris, W. Frank, "Pros and cons of departmentalism", Municipal and Public Services Journal, April, 1966.

Harris, W. Frank, "Planning and local government the next 10 years", Municipal Administration and Engineering, July, 1976.

Hall, E.J., "Professional engineering service to the local authority", Municipal Administration and Engineering, July, 1976.

Hingston, R.A., "Management development in local government", Local Government Administration, December, 1967.

Jordan, Radford, "Metropolitan Government", The South African Treasurer, September, 1963.

Laurie, G.G., "Public Administration and Political Science", SAIPA, 7(1), March, 1972.

Marsh, H.M., "Forward Planning in Local Government", Municipal Administration and Engineering, June, 1973.

Maud, John, "Can Local Democracy be Efficient?", Municipal Review, November, 1966.

Morris, S.S., "The status of the civil engineer in local government", Municipal Administration and Engineering, June, 1976.

Pullan, W.A., "Candidates' Ordeal by Committee", Municipal and Public Services Journal, February, 1967.

Rautenbach, A., "Bestuurskomiteestelsel in die Vrystaat", Municipal Administration and Engineering, January, 1976.

Reddin/...

Reddin, V.J., "How to make local government effective", Municipal Administration and Engineering, February and March, 1976.

Reynders, L.R., "Menslike arbeid as faktor in organisering", Municipal Administration and Engineering, September, 1974.

Richards, Hadyn, "Politics and Local Government", Municipal and Public Services Journal, February, 1967.

Roome, K.P.S., "Variations in the Management Committee System", The South African Treasurer, February, 1968.

Roux, B.J., "South African Local Government to-day", Municipal Administration and Engineering, January, 1972.

Roux, B.J., "Functioning and efficiency of the South African public sector", SAIPA, 6(4), December, 1971.

Speed, J., "Municipal Administration in South Africa", Municipal Administration and Engineering, November, 1974 to August, 1975.

Stewart, J.D., "Management Process and Structure in the New Authorities", Local Government Chronicle, May, 1971.

Stewart, J.D., "Corporate planning reviewed", Local Government Chronicle, July, 1972.

Stewart, John, "Redefining the CEO role", Municipal and Public Services Journal, 6th February, 1976.

Stewart, John, "Fruitful Administration", Municipal and Public Services Journal, 2nd April, 1976.

Stewart, John, "Corporate Planning now?", Municipal and Public Services Journal, 16th April, 1976.

Stewart, John, "Corporate Planning How?", Municipal and Public Services Journal, 30th April, 1976.

Stewart, John, "Building staff morale", Municipal and Public Services Journal, 14th May, 1976.

Stewart, John, "No 'middle way'", Municipal and Public Services Journal, 9th July, 1976.

Taylor, John L., "Developing the Management Team", Public Management, March, 1970.

Thornhill, C., "Finansiële implikasies van personeel-administrasie", Die Staatsamptenaar, 49(7), July, 1969.

Thornhill, C., "Die teorie en praktyk van finansiële administrasie met besondere verwysing na begrotingspraktyke", SAIPA, 7(3), September, 1972.

Van der Spuy, J.J.S., "New trends in local government in the Transvaal", Municipal Affairs, 27(324), August, 1962.

Venter, A.P., "n Algemene grondplan vir personeel-administrasie vir plaaslike owerheidsdienste", Municipal Administration and Engineering, January, 1977.

Viljoen, A., "Opleiding in die Suid-Afrikaanse Staatsdiens", Africanus, 5(2), September, 1975.

Wakefield, Susan, "Ethics and the Public Service : A case for Individual Responsibility", The Public Administration Review, November/December, 1976.

Williams, C.W., "The new local government in Britain", Municipal Administration and Engineering, September to December, 1975 and January, 1976.

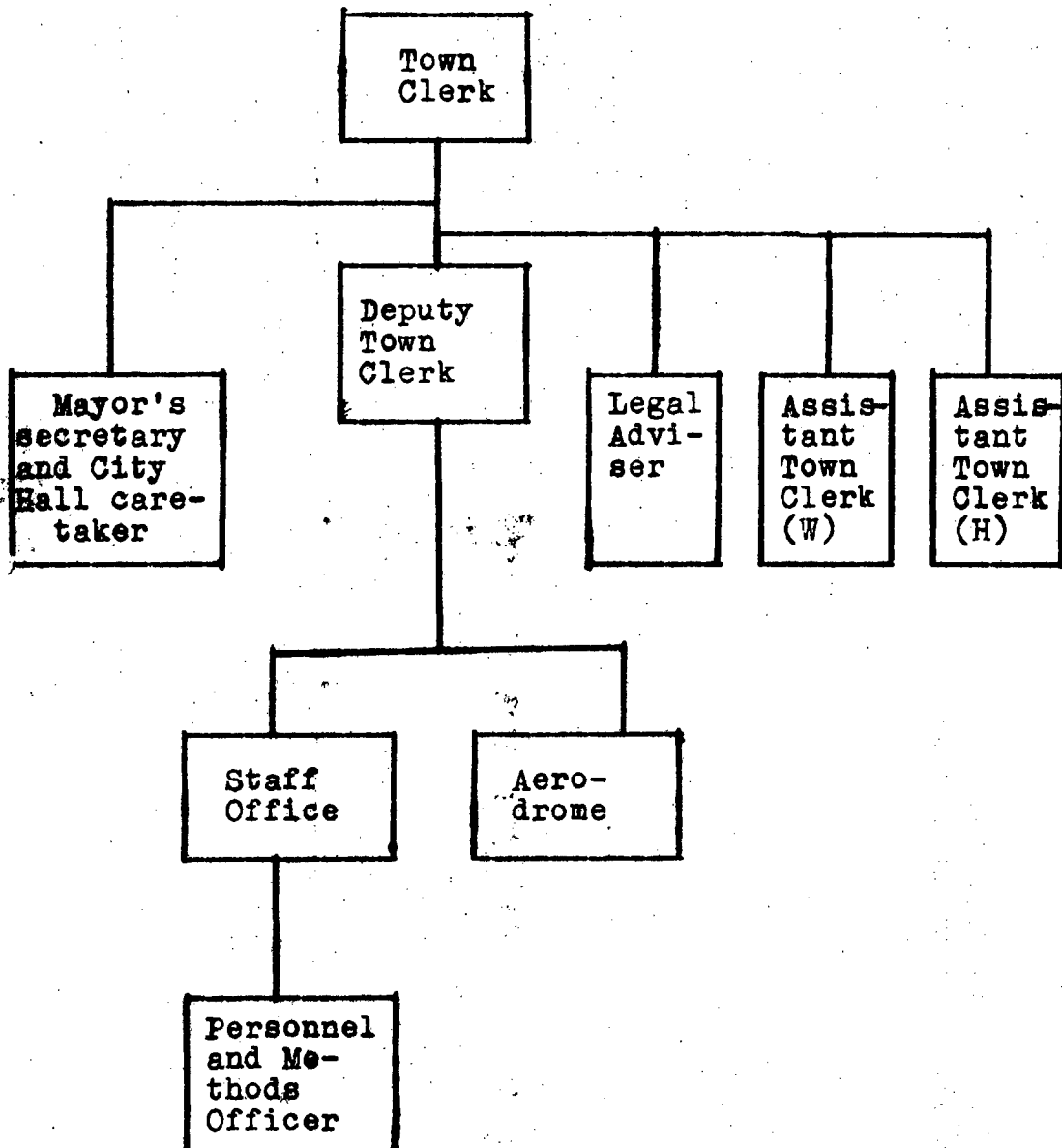
THE PARTICIPATION OF THE TOWN CLERK IN POLICY-MAKING

TOWN	MONITORS POLICY	HAS OWN POLICY	PARTICIPATES IN POLICY- MAKING AT COUNCIL LEVEL	HAS TO REQUEST THE COUNCIL TO DEFINE OR CLARIFY POLICY	HAS TO SPEAK TO COLLEAGUES ABOUT THEIR MIS-APPLYING OR MISINTER- PRETING POLICY
* Port Elizabeth	/	/	/	/	Sometimes
* East London	/	/	/	Sometimes	Seldom needed
x Kimberley	/	/	Sometimes	Sometimes	/
x Parow	/	/	/	Sometimes	Sometimes
x Paarl	No	No	/	/	Sometimes
x Beaufort West	/	/	/	Sometimes	Sometimes
* Carnarvon	/	/	Partially	Sometimes	Sometimes
* Simonstown	/	/	/	Sometimes	Sometimes
* Pietermaritzburg	/	/	/	Sometimes	Sometimes
x Lady Smith	/	/	/	Sometimes	/
* Amanzimtoti	/	/	/	Never necessary	Seldom
x Estcourt	Partially	/	/	/	Seldom
* Eshowe	/	/	/	Sometimes	Not necessary
* Bloemfontein	/	/	/	/	/
* Bethlehem	/	/	/	Sometimes	Sometimes
* Odendaalsrus	/	/	/	/	Not often
Virginia	/	/	/	/	Seldom
Johannesburg	/	/	/	/	No
* Pretoria	/	/	/	/	Done corporately
* Boksburg	/	/	/	/	/
* Heidelberg	/	/	/	No	/
* Lichtenburg	/	/	/	/	/
x Nigel	/	/	/	No	No

NOTE 1. The symbol / means that the Town Clerk practices the activity concerned.

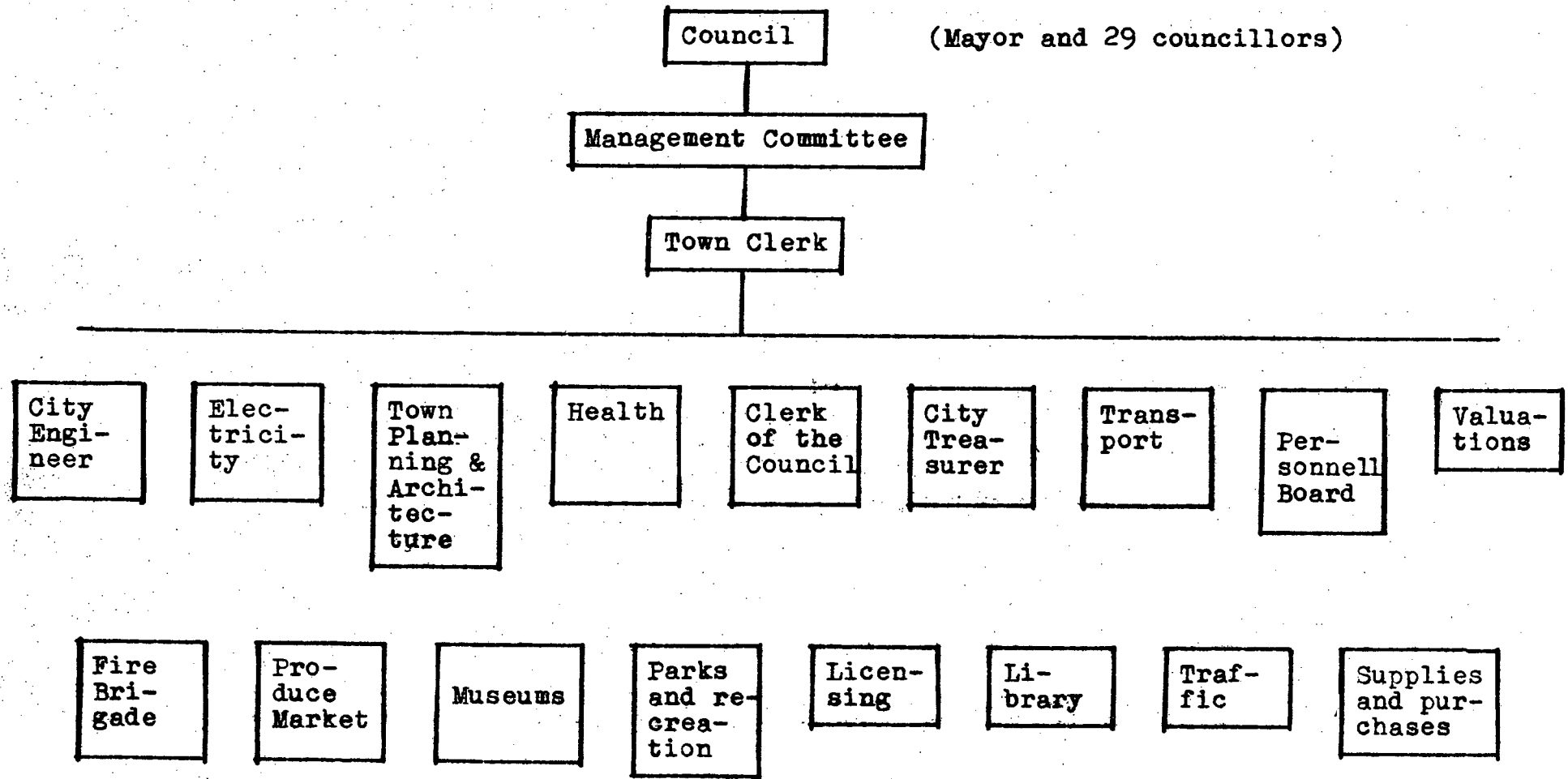
2. The asterisk indicates that the Town Clerk concerned has, in the author's view, a positive approach to the determination of rules for future situations or conduct.

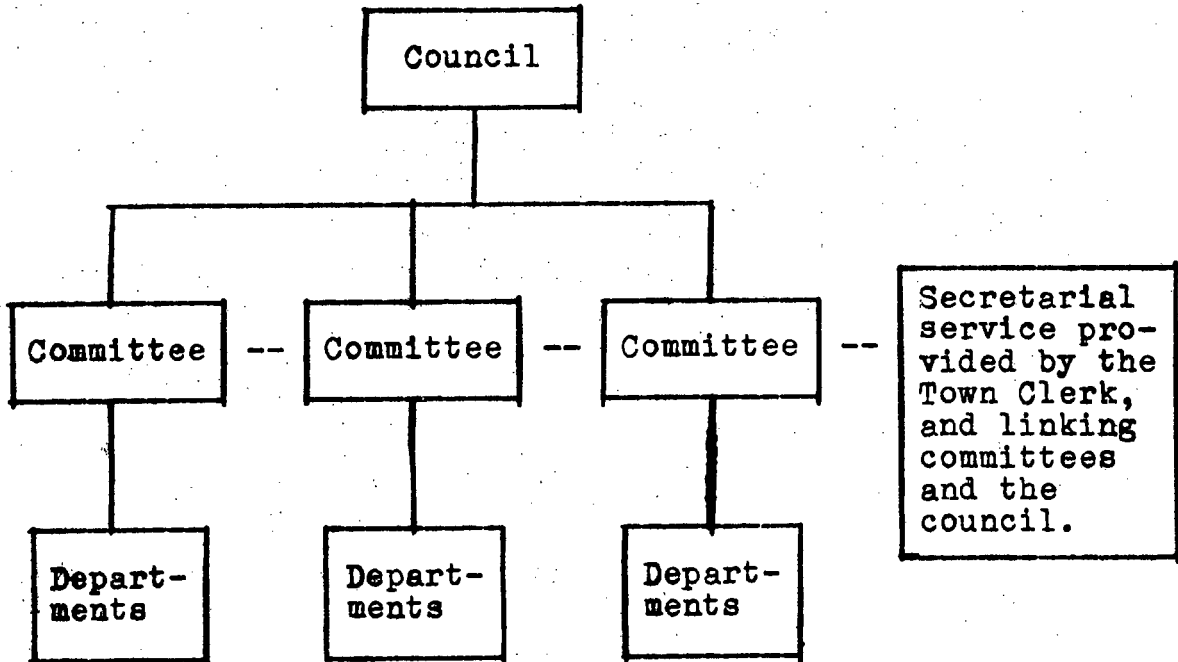
3. The symbol x indicates that in the author's opinion the Town Clerk concerned sees himself as having a review function on the actions of other officials coupled with a policy of his own.

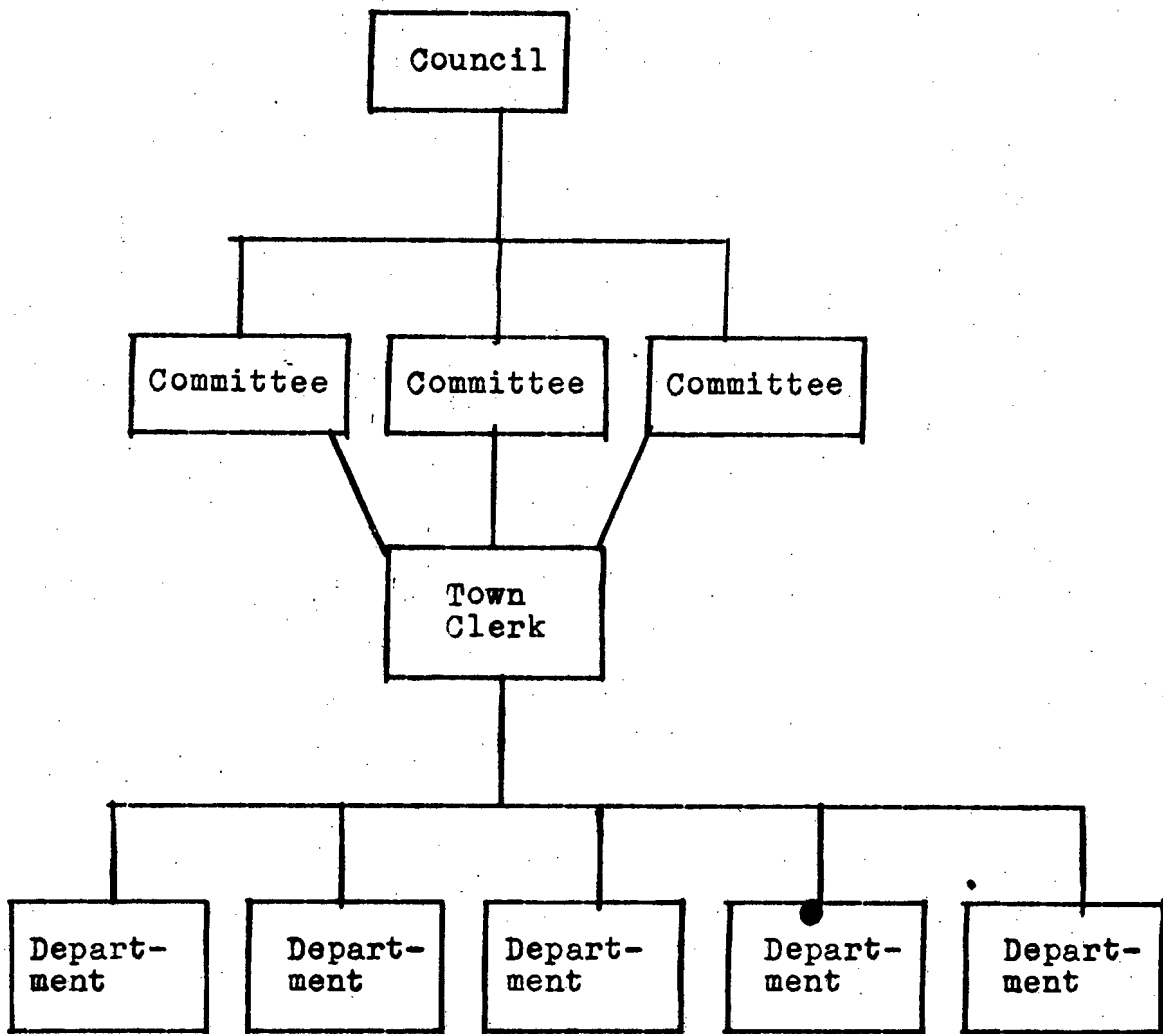
APPENDIX THREETHE STRUCTURE OF THE PIETERMARITZBURG TOWN
CLERK'S DEPARTMENT

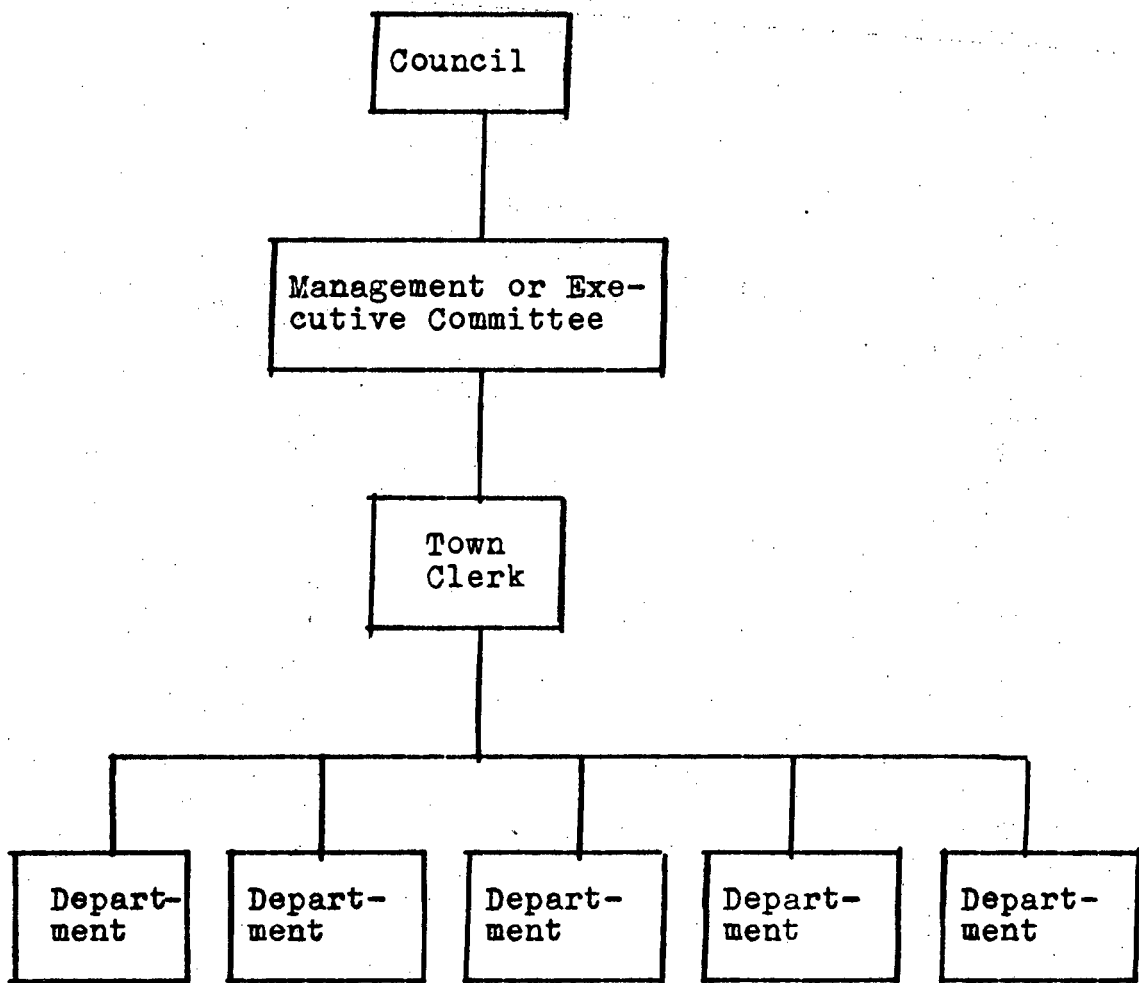
APPENDIX FOUR

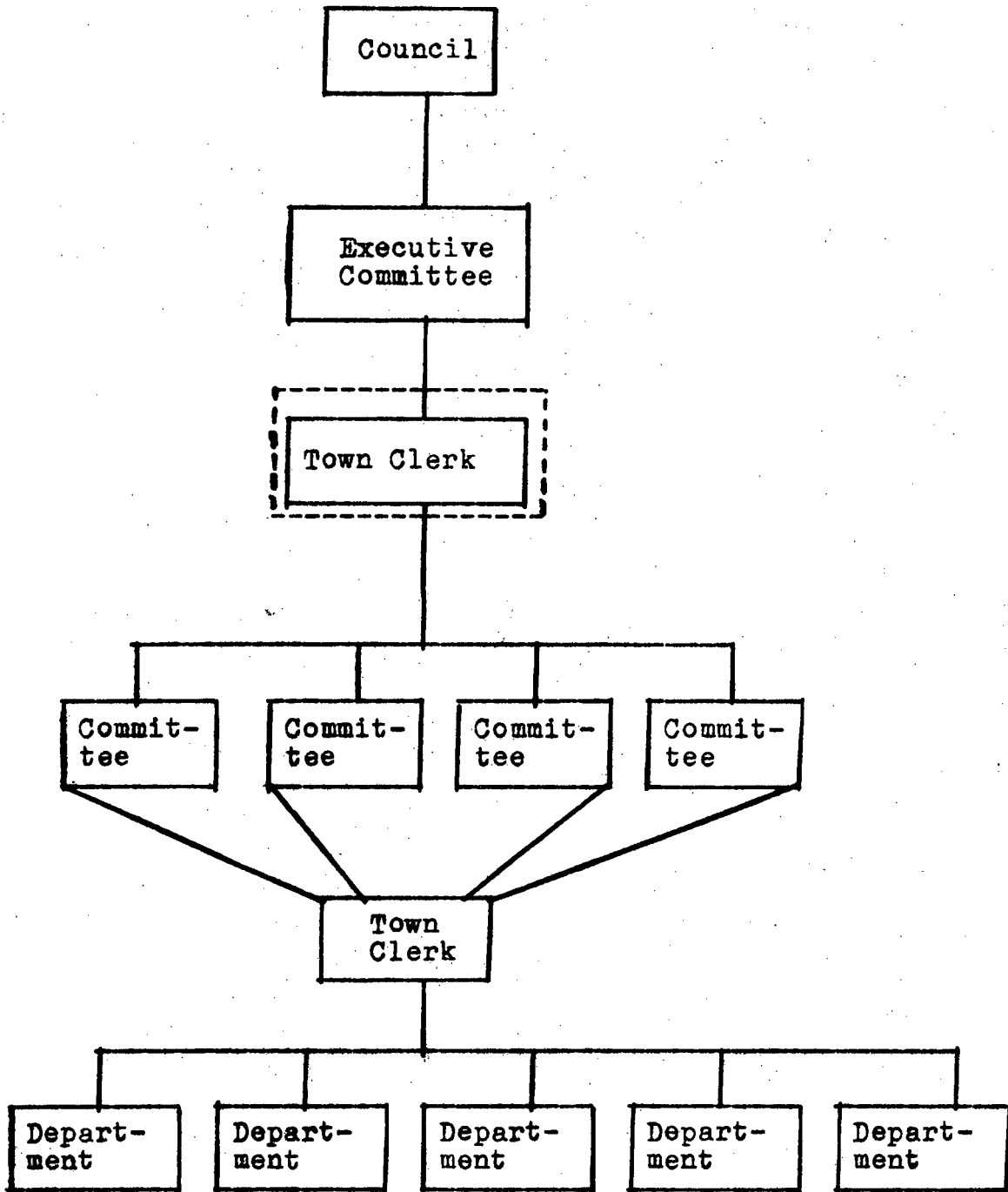
THE COUNCIL -- TOWN CLERK -- HEADS OF DEPARTMENTS RELATIONSHIPS IN PRETORIA



APPENDIX FIVETHE TRADITIONAL PATTERN OF LOCAL GOVERNMENT ORGANISATION

APPENDIX SIXTHE MODIFIED PATTERN OF LOCAL GOVERNMENT ORGANISATION

APPENDIX SEVENTHE MANAGEMENT/EXECUTIVE PATTERN OF LOCAL
GOVERNMENT ORGANISATION

APPENDIX EIGHTTHE CAPE TOWN SYSTEM OF ORGANISATION

NOTE: The double lines around the Town Clerk are to show that in this position he is the overall chief executive and administrative officer while he is a head of a department and a conduit for communication.

<u>Function</u>	<u>Port Eli- zabeth</u>	<u>East London</u>	<u>Kimber- ley</u>	<u>Perow</u>	<u>Pearl</u>	<u>Pieter- maritz- burg</u>	<u>Lady- smith</u>	<u>Aman- zimtoti</u>	<u>Est- gourt</u>	<u>Es- howe</u>	<u>Beaufort West</u>	<u>Carnarvon</u>	<u>Simonstown</u>	<u>Totals</u>
Forestry						x								1
Aerodrome						x								1
Museum										x				1
Amenities		x	x	x										3
Game Park										x				1

Re-arranged in numerical order, the position looks like this:

<u>Activity</u>	<u>Incidence of occurrence in 13 Municipalities</u>
Administration	10
Traffic	9
Library	7
Personnel	5
Estates	4
D and M)	
Housing)	
Fire Brigade)	
Legal)	3
Licensing)	
Amenities)	
Voters' Roll)	
Trading)	2
Printing)	
Industries)	
Planning)	
Advisory)	
Public Relations)	1
Civil Defence)	
Forestry)	
Aerodrome)	
Museum)	
Game Park)	